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ROMANÆ HISTORIAE ANTHOLOGIA RECOGNITA ET AVCTA.

AN ENGLISH EXPOSITION OF THE ROMAN ANTIquities, wherein many Roman & Englisſh offices are paralleld *and divers obſcure phraſes explained*

For the vſe of ABINGDON *Schoole.*

Newly reviſed and inlarged by the *Author.*

OXFORD,
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ANNO DOM. 1628.

VIRO

COLENDISSIMO

D° IOANNI YOVNG SS. THEOLOGIÆ DOCTORI, & Ecclesiæ WINTONIENSIS *Decano Ornatissimo.*

Εὐδαιμονέστατα διάγειν

Vir Ornatissime,

NON liberi quàm libri pluribus exponi periculis solent, cùm primùm prodeant in lucem: vtrisq; pariter opus est tutelari aliquo numine obstetricante. Hoc olim sensit Anthologia hæc nostra primùm edita: idem sentit eadem in hodierna duarum sectionum, & capitulorum aliquot superfœtatione. Nacta igitur secundas suas cogitationes te ambit Patronum, qui facem aliquam mihi in his antiquitatibus obambulanti prætulisti, & quem multum fuisse in

ſtudijs meis promovendis, palam, & ſub Dio prædico. Videbis me aliquoties alium à doctiſſimis viris, & ab illorum ſententijs alienum: Veritate enim præponderante, nullus apud me Plato, nullus erit Ariſtoteles, (nolo ego iſtiuſmodi inſaniam inſanire, vtcunque ſplendidam & *autoritativam:*) Cæterùm tacitus hoc facio, & apud me, citra omnem velitationis pulverem, rarò admodum quovis protracto in arenam, ne videar ex illorum numero, qui ex nuda pugna cum adverſario aliquo eximio commiſſa, gloriolæ neſcio quos fumos ſibi pollicentur. Hæc ſcribendi ratio ſi tibi placeat, alios non moror; quibus ſi ſimplex veritas non arriſerit, cum magnis nominibus deviare per me licebit. Vale, & meas Muſas, vt ſoles, ama; illæ, quod jam faciunt, te colent ſemper, & omni obſequio proſequentur. *Datum Abindoniæ* 14. *Calend. Decemb. Anno* χεισοφόιμ. 1622.

Dignitati tuæ

multiplici nexu mancipatus,

THO. GODWYN.

BENEVOLO LECTORI.

Εὐφεμεῖτον, Εὐχεῖτον.

MIRARIS forsan & redarguis, quòd nondum destitum ab his elementaribus, quasi vita mihi vitalis foret, in his minutijs integram meam ætatem eludere, & votum vnicum in his prævijs studijs senium contrahere. Qui sic sentis, nec me satis nôris; nec ludi literarij (pone lenocinium nominis, moletrinæ dices) iniquas leges, aut miserias quotidianas, & omnigenas. Sentio ego me in pistrinum damnatum, & cogita tu hanc Anthologiam è pistrino prodeuntem. Si minus placeat, illud dabis puerorum circumstrepentium susurris, inter quos nata est: Si placeat, illud debes puerorum crebris interrogatiunculis, quarum enodationes, me vel invitum indies reducunt ad hæc studia, quæ alias jamdudum jussissem suas sibi res habere; Sic me amet Theologia, sacratior mihi pagina in votis, cùm hæc in manibus, ludo cogente. Interim te monitum velim, quæ accessêre, non vulgaria, aut obvia; nec quæ vulgus hominum, aut docuit, aut didicit. Vale.

A short table shewing the argument of every Booke and Section.

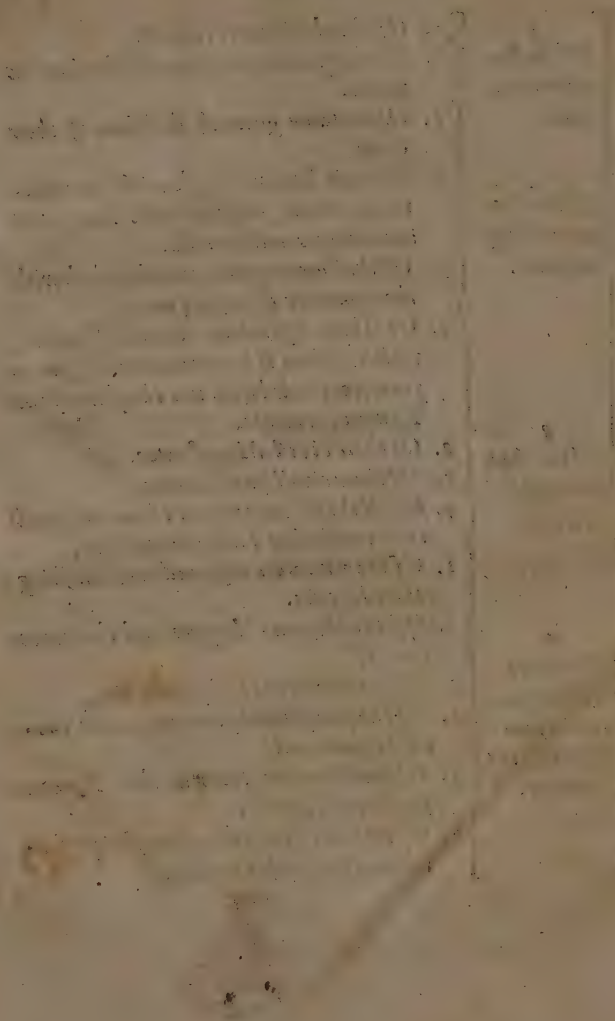
Lib.

1 Of the Roman citie. Sect.
- 1. Of the chiefe parts thereof.
- 2. Of the generall divisions of the Roman people.

2 Of the Roman Religion. Sect.
- 1. Of certaine generall divisions of their Gods.
- 2. Of their Roman Priests with some particular Gods, together with their rites in mariages and burialls.
- 3. Of the Roman games, which endeth with their manner of taking meat.

3 Of the state politicall. Sect.
- 1. Of their assemblies called Comitia, which Section is begun with the Roman yeare, concluded with two chapters of the Roman garments.
- 2. Of their civill Magistrates.
- 3. Of their civill punishments.
- 4. Of all those lawes which I haue obserued to be touched in Tully his orations.

4 Of the art military, as it was practised by the Romans. Cap.
- 1. Of their manner obserued in establishing their leagues.
- 2. Of the Roman Legion and the parts thereof.
- 3. Of the manner of besieging a city.
- 4. Of the punishments towards their enemies captiuated.
- 5. Of punishments towards the Roman souldiers offending.
- 6. Of certaine rewards after the performance of any noble exploits.



THE ROMANE ANTIQVITIES

Expounded in Englisʃh.

LIB. 1. SECT. 1.

Of the chiefe parts of the Citie.

CAP. 1.

De modo condendarum, delendarumq; vrbium.

BEfore we handle the deſcription of the particular places in the Romane Citie, it will not be amiſſe to premiſe ſome what concerning the ancient manner of building and raizing Cities. In the building of Cities, the founders thereof did vſually conſult with their Gods in their *Augurall* obſervations; & [a] this courſe was obſerved by *Romulus* himſelfe, in the firſt foũdation of *Rome*; After their *Augurall* obſervations, they marked out the place where the wall of the Citie ſhould be built, by plowing vp the ground, & becauſe they left that ſpace of ground vnplowed, lightly lifting the plough over it, where they ap-

[a] M. Tullius lib. 1. de diuinat.

pointed the gate of the city, thence *a portando*, from carying and lifting the plough, they called the gate *Porta*. This cu-

b M. Cato in fragm.

stome is fully deſcribed by [b] *Cato*: *Captato augurio, qui vrbem novam condebat, tauro & vaccâ arabat: vbi arâſſet murum faciebat, vbi portam volebat eſſe, aratrum tollebat & portam vocabat.* *Virgil* alſo alludeth vnto it,

Interea Æneas vrbem deſignat aratro.

The maner hereof was, that he who held the plough, did caſt vp the skirt of his gowne on the right ſhoulder, & gird himſelfe about, either becauſe this was the vſuall habit of ſuch who performed holy rites; in the number of which this preſent action was reputed; or that he might the more readilie addreſſe himſelfe to the buſineſſe; or laſtly, that hee might ſymbolically by that pacifical habit intimate, that the flouriſhing eſtate of a Citie is not ſo much preſerved by warre, as by peace. Hence *Ovid, lib. 4. Faſtorum.*

Ipſe tenens ſtivam, deſignat mœnia ſulco,
Alba iugum niveo cum bove vacca tulit.

c Cæl. Rhod. antiq. lib. 26. cap. 5.

The [c] like cuſtome was vſed alſo in the razing or demoliſhing of cities, when they had beene vanquiſhed by the enemies. Which obſervation giveth light to that of *Horace.* Lib. 1. Od. 16.

——— vrbibus vltimæ
Stetêre cauſæ, cùm perirent
Funditus, imprimeretque muris
Hoſtile aratrum exercitus inſolens.

CAP. 2.

De monte Palatino.

d Vid. Anton. Conſtantium in Ovid. Faſt. lib. 1.

TOuching the name of *Rome*, from what occaſion the citie ſhould be ſo denominated, diverſe authors conceit diverſlie. [d] Some are of opinion, that this citie was buile long before *Æneas* came out of *Troy*, & was then called by

the

the Latines *Valentia*, which was a name of ſtrength, whence *Evander* comming into *Italy*, called it *Roma* from ῥώμη *Robur*. Others ſay, it was ſo called from *Aſcanius* his daughter, whoſe name was *Roma*. But it is agreed vpon by moſt Writers, that the Founders were *Romulus* & *Remus*, & from *Romulus* it was called *Roma*, not *Romula*, becauſe the diminitiue, *Romula*, might ominate leſſe proſperity therevnto. [c] Some ſay, that they built it in forme of a quadrangle, vpon one only hill, called *Mons Palatinus*. [f] Others ſay, that *Fabius* left *Rome* as it was firſt built, with the fields thereof, painted in the forme of a bow, the river *Tiber* being the ſtring thereof. Vpon this *Palatine* hill, was alwaies the ſeat of the Romane Empire, which from the hill tooke the denomination of a **Pallace**: & hence all [g] ſtately buildings which we call **Pallaces**, took their name, *Palatia*. This hill had his firſt appellation [h] *Balatinus*, *à balando*, from the bellowing of cattle paſturing there in former times, and afterwards the firſt letter being changed, it was called *Palatinus*, by the figure ἀλλοιοχν. *Virgil* ſeemeth to be of opinion, that the hill was called *Palatinus*, by *Evander* in remembrance of his grandfather, whoſe name was *Pallas*, according to that

[c] Roſin. antiq. lib 1. cap. 2.
[f] Sigon. de iur. Rom. lib. 1. c. 2.
[g] Roſin. antiq. lib. 1. cap. 4.
[h] Vid. Seruium in Æneid. lib. 8.

----Poſuere in montibus vrbem,
Pallantis proavi de nomine Palanteum. Virg. Æneid. l. 8.

In proceſſe of time ſix other hills by ſeuerall Kings of *Rome* were added; whereby the city, and the *Pomærium*, that is, the territories of the city were enlarged: and *Rome* called *Vrbs ſeptemcollis, id eſt*, the city vpon ſeuen hills.

Sed quæ de ſeptem totum circumſpicit orbem
Montibus, imperij Roma deúmq; locus. Ouid. Triſt. lib. 1. Eleg. 4.

Vpon this *Palatine* hill alſo ſtood the *Aſylum*, or ſanctuarie of refuge, which *Romulus* opened [i] in imitation of *Cadmus*, who at the building of *Thebes* was ſaid to haue opened a ſanctuarie of refuge, whether whatſoever malefactor could eſcape, were he bond or free, he was not to be puniſhed. It was much

[i] Alex. Gen. dier. l. 3. c. 20. vbi plura lectione digna de Aſylis,

much like vnto a custome of the people in the Citie *Croton*, who flying vnto the altars of their Gods, obtained the forgiuenesse of faults not voluntarily committed. Whence these two phrases are expounded alike, *Ad te tanquàm ad Asylum*, and, *Ad te tanquàm ad aram confugimus, id est*, wee fly vnto thee as our only refuge.

Cap. 3.

De monte Capitolino.

THis hill was famous for three names: it was called *Capitolium, mons Tarpeius*, and *mons Saturni*. It was named *Saturnes* hill [k] from the heathenish God *Saturne*, who vouchsafed to vndertake the protection of that place. It was named the *Tarpeian* hill [l] from *Tarpeia* one of the Vestall Nuns, daughter to the chiefe keeper of the Capitoll, (this hill being the castle of defence for the whole towne) For this *Tarpeia* betrayed the Capitoll into the enimies hands, bargaining to haue the golden bracelets vpon her enimies left hands, for this her treason. Now the enemies when they were admitted in, did cast not their bracelets alone, but their bucklers also vpon her, through the weight whereof she was pressed to death: vpon which occasion the whole hill was afterwards called, the *Tarpeian* mount; but more principally a certaine rocke of that hill called *Tarpeia rupes*, from whence malefactors were sundry times tumbled headlong. The same was likewise called the *Capitoll*, because when the foundation of a certaine Temple, built in the honour of *Iupiter* was laide; a mans head, full fresh and liuely, as if it had beene lately buried, [m] yea hot blood issuing out of it, was found there. [n] *Arnobius* saith, that the name of this man being aliue was *Tolus*, and hence from *Caput* and *Tolus*, the whole hill was called *Capitolium*.

[k] Rosin. antiq. lib. 1. c. 5.

[l] Plutarch. in Romulo. 2.

[m] Dion. Halicar. lib. 4.

[n] Lipsius de magnitud. Rom. cap. 5.

Cap.

Cap. 4.

De colle Quirinali.

THis hill being in former time called *Agonalis*, then began to bee called *Quirinalis*, when certaine *Sabines*, called in Latine *Curetes*, came and inhabited there, (truce being made betweene the *Romanes* and the *Sabines*:) though some would therefore haue it named *Quirinalis*, becauſe there was a Temple erected in the honour of *Romulus*, called alſo *Quirinus*. It was called in the time of the Emperours *mons Caballus*, that is, the horſe-hill, taking its denomination from two marble ſtatues of *Alexander* taming his horſe *Bucephalus*: which ſtatues *Conſtantine* the Emperour brought to *Rome*, and placed them in the midſt of certaine bathes, which he made vpō this hill. There doe appeare in this hill three riſings, or hillocks; the one being called *Salutaris*, the other *Martialis*, and the third *Latiaris*. All this may be collected out of [o] *Roſinus*.

o Antiq. Rom. l. 1. c. 6.

Cap. 5.

De monte Cœlio.

THis hill hath his name from a certaine [p] Captaine of *Hetruria*, which aſſiſted *Romulus* againſt the *Sabines*. On this hill, King *Tullus Hoſtilius* erected ſtately edifices, which for a time ſerued as his Palace: but afterward they became the chiefe Councell-houſe, whether the *Senatours* aſſembled themſelues, for the determining of State-matters: and becauſe this *Curia*, did farre exceed all others, therefore Authors many times vſe this word [q] *Curia* ſimply, without any adiunction, to ſignifie *Curiam Hoſtiliam*, as if there were no other. It much reſembleth our Priuy-councell

p Alex. Gen. dier. l. 6. c. 11.

q Alex. Gen. dier. l. 1. c. 16.

Chamber, in respect that none might sit there, but only *Senatours*; whereas in the court-house, which *Pompey* built) being therefore called *Curia Pompeia*) [r] other City Magistrats were admitted amongst the *Senators*: & in *Curia Iulia*, *id est*, the Court-house which *Iulius* made, were examined [f] forreigne matters, as Embassages: but in *Curiâ Hostiliâ* domesticall matters onely were treated of, and that onely by the *Senatours*. [t] At this present time, this hill is beautified with many Christian Churches, as the Churches of S. *Stephen*, S. *Paul*, and S. *Iohn*, our Saviours Hospitall, &c. [u] It was also called *Mons Querculanus*, from the abundance of oakes growing there.

r Rosin. antiq. lib. 7. c. 6.

f Rosin. Ibid.

t Munster. in sua Cosmog. lib. 2. cap. 9.

u Alex. Gen. dier. l. 6. c. 11.

Cap. 6.

De monte Esquilino.

THis hill was so named *quasi* [x] *excubinus ab excubijs*, *id est*, from the night watching, which *Romulus* did vndertake vpon that, somewhat distrusting the fidelity of the *Sabines*, in the beginning of their league. In this hill there were three hillockes named, *Cispius*, *Oppius*, and *Septimus*.

x Rosin. antiq. l. 1. cap. 8.

Cap. 7.

De monte Aventino.

THe *Aventine* mount, tooke his name [a] from *Aventinus*, a certaine King of *Albanum*, which was there buried. Vpon this hill stood *Hercules* his Altar, and certaine Temples consecrated to *Iuno*, *Diana*, *Minerva*, *Lucina*, and *Murcia*, *id est*, *Venus*: whence the hill hath sometimes beene called *Diana* her hill, and *mons Murcius*. Vpon [b] this Mount, *Remus* would haue built *Rome*, and therefore it was called *Remonius mons*: but since, it hath beene called *Mons Rig-*

a Alex. Gen. dier. l. 6. c. 11.

b Plutarch. in Romulo.

Rignarius, as it appeareth by *Plut.* in the same place. It had moreouer the name of the *Holy Mount*, being called in Latine *Mons sacer*.

Cap. 8.

De monte Viminali.

BEcause of the abundance of wicker twigs, which did grow vpon this hill, it was called *Mons viminalis*, *vimen* signifying a twigge or ozier. I am not ignorant, that some would haue this hill to be named *Viminalis*, from *Iupiter Vimineus*, whereas *Iupiter* himselfe was named *Vimineus* from this hill, because he had here many altars erected in the honour of him. Both this hill, and *Iupiter*, were called *Fagutales*, from *sylua fagea*, *id est*, a cops of Beech-trees, which did grow thereupon. *Vid. Rosin. Antiq. lib. 1. cap 9.*

Cap. 9.

De tribus collibus adiectis.

THree [c] other hills there were, which in processe of time were added vnto the City; which partly because they were not included within the *Pomærium* so soone as the other, but chiefely because they were not of such note, therefore *Rome* retained the name *Septi-collis*. The first of those hills was called *Collis hortulorum*, *id est*, the hill of Gardens, so tearmed because of the many gardens neere adioyning. [d] Here was the *Cirque*, or the shew place of the strumpet *Flora*, which made the people of *Rome* heire to those goods which shee had gotten by prostituting her body to young Gentlemen, leauing also a certaine summe of mony to procure a celebration of her birth day: which because of her infamie, the people shaming to doe, they feigned her to bee the

[c] Rosin. Ant. lib. 1. cap. 11.

[d] Barthol. Latomus in Verrin. Orat. 7.

the Goddesse of flowers, and that she must be first appeased, by sports and plaies, performed in the honour of her, before the trees and fruits of the earth would prosper; [e] and that they might gaine the better credit vnto this their fable, they adde further, that she was once called *Chloris*, and was married vnto *Zephyrus*, from whom by way of dowry shee receiued power ouer the flowers. The second was called *Ianiculus*, from *Ianus* that two-faced God: who, as writers testifie, was there buried. It did lye beyond the riuer *Tiber*, and hath now changed its name, being called from the yellow sands, *Mons aureus*, and through negligence of the Printer, *Montorius*, *id est*, the Golden Mountaine. The third was famous for the many diuinations, and prophesies, vttered vpon it, and thence was it named *Vaticanus* from *Vaticinium*, a fore-telling. [f] It is at this time famous for a Library in it, called *Bibliotheca Vaticana*.

[e] Lactant. de fals. relig. lib. 1. cap. 20.

[f] Munster in sua Cosmog. lib. 2. cap. 8.

Cap. 10.

De Foro Romano.

Forum hath diuers acceptions: somé times it is taken for a place of negotiation, or marchandising, which wee call a **market place**: and beeing taken in this sense, it hath commonly some adiectiue ioyned with it, as *Forum boarium*, the beast market, *Forum piscarium*, the fish market, *Olitorium forum*, the hearb market: other times it is takē for any place, whereseoeuer the chiefe gouernour of a Prouince doth conuocate his people together, there to giue iudgment, according to the course in law: whence a man is said, *Forum agere*, [g] when hee keepes the assises, and *Forum indicere*, when hee appointeth the place where the Assises shall bee kept. Thirdly, it is taken for a place, where controuersies in law are iudicially determined, and Orations are had vnto the people. At first, of this sort were only three, *Romanum*, *Iulium*

[g] Hubertus in Cip. lib. 3. ep. fam. 6.

um, & *Augustum*, as is clearly evidenced by that of *Martial.*

Atque erit in triplici par mihi nemo foro.

Afterward the number was increased to five distinct *Forums*: one called *Forum Iulium*, because it was built by *Iulius Cæsar*. A second was added by *Octavius Augustus*, called therefore *Augusti Forum*. The third *Forum*, was founded by *Domitian* the Emperour: but by reason of his sudden death, *Nerva* had the finishing thereof. It had the name of *Forum Transitorium*, the transitorie *Forum*, because there was *Transitus, id est*, a way or passage through it into three severall market places. The same *Martial* calleth sometimes [h] *Forum Palladium*, because in the middle thereof a Temple was erected in the honour of *Minerva*. A fourth was added by the Emperour *Traianus*, wherein was erected a stately columne or pillar 140 cubits high, having all the noble exploits performed by *Traianus* engraven in it: another was called *Salustij Forum*, because *Salust* bought it with divers Gardens adioyning, which since haue beene called *horti Salustini*. The last *Forum*, which indeed was first built, and in all respects excelled the rest, was called *Forum Romanum*, and *Forum vetus*, or by way of excellency the *Forum*, as if there were no other *Forum*: where we must vnderstand, that as often as *Forum* is vsed in this latter sense, namely for a pleading place, it is so vsed figuratiuely, by the figure Synecdoche: for in truth the pleading place, wherein Orations were had, was but one part of the *Forum Romanum*, namely that Chappell, or great building, which they called *Rostra*. [i] Round about this *Forum Romanum*, were built certaine trades-mens shoppes, which they tearmed *Tabernæ*, and also other stately buildings, called *Basilicæ Pauli*. Here was the *Comitium*, or Hall of Iustice; the *Rostra, id est*, the Oratours Pulpit; *Saturnes* Sanctuarie, or the common treasure house; and *Castors* Temple: of all which in their order.

[h] Lipsius de magnitud. Rom. l. 3. c. 7.

[i] Henr. Salmuth. in Pancirolli lib. rerum deperdit. cap. de basil. & taber.

Cap. 11.

De Basilicis.

Basilicæ were vpper buildings, of great state and much cost, being supported with *Pilæ*, *id est*, flat-sided pillars; and hauing vnderneath them walkes, much resembling our Cloisters, saving that the *Intercolumnia*, or space betweene the pillars lay open vnto the very ground. That they were vpper buildings may bee collected by the custome of many men, which were wont to walke vnder these Basilicall buildings, and therefore were called, *Subbasilicani* by *Plautus*. The vse of these were principally for the [k] Iudges to sit in iudgement: but in their absence it was lawfull for Marchants to deale in their businesses. Those of chiefe note were three, thus named, *Pauli*, *Porcia*, and *Iulia*.

[k] Sigon. de iudicijs lib. 1. cap. 28.

Cap. 12.

De Comitijs.

Comitium [l] was a part of the *Forum Romanum*, being a great large hall of iustice, which for long time was open at the top, hauing no covering, and for that reason the assemblies were often dissolued in rainy, or vnseasonable weather. In it stood the *Tribunall*, being a place erected vp on high in forme of our pulpits, but many degrees larger, and in the middest thereof, the *Sella Curulis*, *id est*, the Ivory chaire, from whence the chief Magistrate administred iustice; other inferior Magistrats sitting on benches on each side, which were called *Subsellia*, because they were lower then the Tribunall. Those which sate vpō these benches had power *cognoscere*, but not *pronuntiare*; much like to our Iustices at Assises, which may examine or informe against a male-

[l] Sig. de iud. lib. 1. cap. 7.

malefactor, but not condemne him. Where wee may obserue, the difference betweene *Comitium*, signifying such an edifice, or building, and *Comitia*, signifying the Romane assemblies: both being called *à coeundo*. This hall was many times called by the name of *Puteal Libonis*. The reason of which name is rendred thus by [m] some. That in this *Comitium*, *Attius Navius* did once with a razor cut in two a whetstone, and in memory thereof, his statue was erected, with an hat vpon his head, for *Puteal*, properly doth signify the cover of a well, but in a large acception, it signifieth a broad brimmed hat, as *Cælius Rodiginus* noteth in the same place. [n] *Cicero* toucheth this. *Cotem illam, & nouaculam defossam in Comitio, supraq; impositum Puteal accepimus.* But why it should bee called, *Puteal Libonis*, is yet doubtfull, except happely *Libo* was the first erecter of this statue. That it was a common court, and knowne place of iustice, *Horace* witnesseth. *Roscius orabat, sibi adesses ad puteal cras,*

[m] Cæl. Rhod. lib. 10. c. 17.

[n] Cic. de diuinat.

Cap. 13.

De Rostris

NExt to the *Comitium* stood the *Rostra*, a goodly faire edifice, in manner of the body of a Cathedrall Church. In it stood an Orators Pulpet, deckt and beautified with the stemmes of many ships, which the *Romans* got from the people of *Antium*, in a memorable battaile vpon the Sea: And [o] hence from those ship-beakes, called in Latine *Rostra*, hath this place taken its name. It may be Englished, the great Oratory, or place of Common-plea.

[o] Hubert, in Cic. ep. lib. 8. ep. fam. 1.

Cap. 14.

De templo Castoris.

p Suet. in Iulio Cæsare.

ANother part of the *Forum* was a sanctuarie built in the honour of *Castor* and *Pollux*: the reason thereof was because they appeared vnto the *Romans* in the Latine warre in the likenesse of two *Angels* sent from heauen to leade the *Romane* army, and to assist the *Romans* against the *Latines*: who being vāquished, they suddenly were departed out of the field, none knowing how, and euen in the same moment they appeared vpon their sweating horses vnto the *Roman* Citizens in the *Forum*, who taking them for souldiers, demanded what newes they brought home from the campe: they replyed, that the *Romans* were conquerours: which newes being deliuered they suddenly vanished & were seene no more. Vpon this occasion did *A. Posthumius* being at that time *Dictator*, build a temple in that place of the *Forum*, where they were seene in honour of them both. Although in the after Ages, it had the name onely of *Castors* Temple: Whence arose the iest of *M. Bibulus*, against his fellow Consul *Iulius Cæsar*, saying; it fared with him, as it did with *Pollux*; *id est*, as this temple which was erected in the honour of both the brethren, carried the name onely of *Castors* Temple; so the great expences in exhibiting shewes in the time of their Consulshippe, though they were deeper on *Bibulus* his side, yet *Cæsar* carried away all the thankes, and credite. In so much that the people being wont to subscribe the names of both Consuls at the end of their Deedes, and Charters, for a remembrance of the yeare; that yeare they wrote, Such a thing done; not *Bibulus* and *Cæsar*, but *Iulius* and *Cæsar*, being Consuls.

Cap.

Cap. 15.

De æde Saturni

Saturnes sanctuarie [q] was the common treasure house, wherein the subsidie money which the commons paide vnto the treasurers called *Quæstores*, was to be laide vp: whereof diuers coniecture diversly. *Alexander Neop.* [r] saith, that *Saturne* found out the vse of brasen money: and therefore this Temple might be thought the fittest place for the treasury. *Plutarch* thinketh rather, that the making of the treasurie in that place did allude to the integrity of the time, wherein *Saturne* rained, being the worlds golden Age. [s] But the most receiued opinion, is the strength of the place, whereby it was the safer from theeues. The Temple by reason of the vse it was put vnto, was called *ærarium* from *æs, id est*, Brasse: which name now is common to all treasure houses: for that the first money vsed by the *Romans* was of that mettall, vntill the yeare of *Rome*; 485. (as *Pliny* witnesseth lib. 3. cap. 33.) [t] Some are of opinion, that before the vse of brasse, they made mony of leather: whence *Numa Pompilius* is said to haue giuen leather mony in a dole vnto the people. Touching their order obserued in the treasurie, wee must vnderstand that their care in prouiding against sudden daingers was such, that they laid aside the twentieth part of their receipts, which they [u] called *aurum vicesimarium*, *Incensimarium*, and *Cumiliarchium*, into an inner Chamber or more sacred roome, named in Latine *ærarium sanctius*. [x] Wee may reade also of a third treasury called *ærarium militare*, wherein *Augustus* had appointed that the twentieth part of certaine legacies should be laid vp to defray charges in extraordinary wars: where it lay so priviledged, that it was a capitall crime to vse any of it, but in extreame and desperate necessity. Notwithstanding, howso-

[q] Plutarch in Publicola.

[r] Alex. Genedier. l. 4. c. 15.

[s] Alex. Genedier. l. 2. c. 2.

[t] Alex. Genedier. lib. 4. c. 15.

[u] Alex. Genedier. l. 2. c. 2.

[x] Servius. l. 2. Virg. Georg.

euer it was vſed as a treaſure houſe [x] yet diuers Authors teſtifie that the Acts of their Senate, the books of records, together with ſuch bookes, as were for their immeaſurable bigneſſe, called *libri Elephantini*, wherein all the names of their Citizens were regiſtred, and alſo their military Enſignes, were contained there. [y] And from thoſe ſtatute books called *tabulæ publicæ*, this treaſurie was alſo called *Tabularium*, becauſe they were laide vp there.

[x] Alex. Geñ. dier. l. 2. c. 2.

[y] Plutarch. in ſuis problemat. vid. Franc. Syluiũ in Catilinar. 4.

Cap. 16.

De campo ſcelerato.

Campus ſceleratus, the field of execution [z] lying within the citie, ioyned to the gate *Collina*. It was the place, where the Veſtall Nuns, if they were deflowred, ſuffered puniſhment after this manner. There [a] was made a Vault vnder the earth with a hole left open aboue, wereby one might goe downe; and within there was a little couch with a burning lampe, and a few victuals: whither the defiled Votary was to be brought, through the market place, in a litter ſo cloſed vp with thicke leather, that her mournings might not be heard to the mouing of pitty. Shee beeing thus brought to the place of execution, was let downe by a ladder into the hollow Caue, and the hole preſently ſtopped. And the reaſon why they ſuffered ſuch a kinde of death, was becauſe rhey thought it not fitte, that ſhee ſhould bee burnt with fire, which kept not the ſacred fire with greater ſanctity. And it was thought vnlawfull to puniſh them by laying violent hands on them, becauſe they had in former time ſerued in ſo holy a function.

[z] Munſter. in ſua Coſmog.

[a] Plutarch. in Numa.

Cap.

Cap. 17.

De Campo Martio.

THe [b] *Campus Martius*, otherwise called *Tiberinus*, (because it was neere the riuer *Tiber*) was giuen vnto the Roman people, by *Caia Tarratia*, a Vestall Virgin: but *Tarquinius Superbus*, the last King of *Rome*, did take it from the people, converting it to his owne priuate vse: insomuch that he sowed corne there; which when he was deposed, the *Romans* did cast into the riuer *Tiber*, iudging it vnfit that any man should reap any commodity from so holy a ground. In processe of time, the sheaues of corne being stopped in a shallow foard of the riuer, became firme ground, and was called, *The holy Iland*, or *Æsculapius his Iland*. and presently after the expulsion of *Tarquinius*, this *Campus Martius* was restored vnto its former vse. Beside the naturall pleasantnesse of the place it selfe, it was beautified with many ornaments brought out of the *Capitoll* (the *Capitoll* being too full) as likewise with divers images of well deseruing men. Hither did the younger sort of *Romans* come to exercise Chiualry, namely the horse-race, the foot-race, wrestling, fencing, casting the bowle, the sledge, the dart, vsing the sling, the bow, vaulting, with such like: and vpon this occasion it was dedicated to *Mars*, and called by *Strabo*, the **Romans great schoole of defence.** [c] The manner of vaulting, was in riding, to leape from one horse-backe vpon another, their custome being for their horse-men in warre, to lead a spare horse in their hands, besides that whereon they did ride, that when the one did sweat, they leaped vpon the others backe; *à desiliendo*, those horses were called *Equi desultorij*: whence an vnconstant, wauering, and vnsetled minde, which *Seneca* calleth *Volaticum ingenium*, others haue called *Desultorium ingenium*. In this field were men of best note burned, when they died. Here were the Kings, and other Magistrates,

[b] Rosin. antiq. lib. 6. cap. 11.

[c] Cœl. Rhod. l. 21. c. 29. 30.

gistrates at first created. In this [d] field of *Mars* also was a place at first railed, like a sheep-pen, called therefore *Ovilia*, or *septa*; but afterwards it was mounted with Marble stone, beautified with stately Walkes and Galleries, and also with a Tribunall, or seat of iustice, within which precinct the people oftentimes assembled to giue their suffrages toward the election of Magistrates. The meanes of ascending vp vnto these *Ovilia* was not by staires, but by many bridges made for that time, every parish in the assembly of parishes, and every Tribe, or Ward in the assembly of the Tribes, & every hundred in the assembly of Centuries hauing his Bridge: whence this proverbe was occasioned, *de ponte deijciendus, id est*, he is to be barred from giuing his voice. [e] These bridges were not made ouer any riuer but ouer the dry land: whence mē were said to be cast, *Non vt periclitarentur de vita, sed ne suffragarentur in Comitijs.*

[d] Servius in Bucol. eclo. 1.

[e] Ioan. Saxonius in Orat. pro S. Roscio.

Cap. 18.

De Circo Maximo.

Amongst other places where the Romans exhibited their Playes vnto the people, the most remarkable was the great Circque, or shew-place, called in Latine *Circus Maximus*. It was a large peece of ground, lying neere that part of the *Aventine* Mount, where *Dianaes* Temple stood. It was built by *Tarquinius Priscus*, with diverse galleries round about it, from whence the *Senators* & Gentlemen of the City did behold the running with great Horses at lists, the fire-workes, tumbling, the bayting, and chasing of wild beasts, &c. In former time, all did stand on the ground, being sheltred from the raine by the helpe of boards vpheld with forkes in manner of house-pentices: and this custome continued vntill the aforesaid *Tarquinius* erected those Galleries, called *Fori*, making thirty distinctions of them

them, allotting every ward or companie their severall quarters, all the seats being able to containe one hundred fiftie thousand parties. [f] Vnder these places were cels, or vaults, where women did prostitute their bodies, and would buy stolne goods, and for this reason *Horace* calleth it *Fallacem circum, id est*, the deceitfull shew-place. There was at the one end of the cirque certaine barriers, *id est*, places barred, or railed in, at which place the horses began the race; and at the other end was the marke, whether the horses ran: it was called in Latin *Meta*, and the barriers *carceres, à coercendo*. Whence we say *à carceribus ad metam, id est*, from the beginning to the ending.

[f] Rosin. antiq. lib. 5. cap. 4.

Cap. 19.

De Theatro.

THe Theatre [g] hath his name from the Greeke verbe Θεᾶσθαι, *id est*, to behold: because the people flocked thither, to behold plaies and shewes exhibited to them. The custome [h] first sprang from the sheepeheards, who leading a contemplatiue life, were wont to compose dialogues in meetre, and at their leasure to recite them vnder the trees pressed down in forme of an arbor; whence this theatrall tearme σκηνὴ, hath beene deriued from σκιὰ, a shaddow, but afterward learned Poets composed Comedies, and Tragedies, which were publiquely acted in the Citie vpon a stage: and although at the first it was counted infamous to frequent them, yet afterwards the *Senatours* themselues, yea the Emperour, and all the chiefe of *Rome* assembled thither. [i] Neither for a long continuance were there any seats built, but Commons, and Nobles, promiscuously one with another, all stood on the ground: insomuch that those which stood behinde, raised vp places with turfes of earth, which gaue the people occasion to call the place betweene those

[g] Ioach. camerar. in orat. pro L. Flacco.
[h] Servius l. 2. Virg. Georg.
[i] Alex. Gen. dier. l. 5. c. 16.

turfes and the ſcaffold, *Cavea, id eſt*, a caue or denne: yea the people that ſtood there, were ſo called frō the place. Though the Theatre be now taken only for the ſtage; yet then by it was vnderſtood the whole roome, where theſe plaies were acted: and it had diverſe parts, ſome proper to the actours, ſome to the ſpectators. To the actors firſt belonged the *proſcenium, id eſt*, the houſe, whence the players came: where they apparelled themſelues, though ſometimes it is taken for the ſcaffold, or ſtage it ſelfe: ſecondly, the *pulpitum, id eſt*, the ſtage or ſcaffold vpon which they acted: and thirdly, the *ſcena*, that is, the partition which was commōly made of wood not of hangings. Now that they might change their ſceane according to their pleaſure, they made it [k] *Verſatilem, id eſt*, ſo that with enginnes it might vpon the ſuddaine be turned round, and ſo bring the pictures of the other ſide into outward appearance: or otherwiſe *ductilem, id eſt*, ſo that by drawing aſide of ſome wainſcot ſhuttles (which before did hide the inward painting) a new partition might ſeeme to be put vp: and I thinke becauſe thoſe ſheepheards did act no more at a time, then one of our *Scenes*, hence haue we diſtinguiſhed our plaies into ſo many parts, which wee call *Scenes*. The places which were proper to the ſpectators were diſtinguiſhed according to their degree & ranck; for the remoteſt benches were for the **Commons**, & called *popularia*; the next for the **Knights** and **Gentlemen** of Rome; & called therefore *Equeſtria*; the others wherein the **Senators** did ſit were commonly called *Orcheſtra*: this may be collected out of [l] *Lipſius*, [m] *Cœl. Rhodiginus* ſaith, that the *Orcheſtra* was that place ioining to the ſtage, where *Chorus* ſpake to the people at the end of every act. Diverſe authors are of *Cœl. Rhod.* his opinion, deriving the word *Orcheſtra*, from the Greeke ὀρχέομαι, to dance: but it ſeemeth more probable, to haue bin a peculiar place, allotted for the Senators. *Iuv. Sat. 3*

Æquales habitus illic, ſimilemq; videbis
Orcheſtram, & populum--id eſt, optimates & plebem. The

whole

[k] Servius, l. 3. Virg. Georg.

[l] Lipſius de amphith. c. 14.

[m] Cœl. Rhod. lib. 8, cap. 8.

whole building made for entertainment of the ſpectators, reſembled a triangle, or wedge, ſharpe towards the ſtage, and broad behinde: whence the whole was denoted by the name *Cuneus*; when *Cuneus* ſignified any particular place about the theatre, then by it we are to vnderſtand that which formerly we called *popularia*, the place for the meaner ſort of people, [n] whence when we would point out a baſe and ignoble perſon, *Inter cuneos reſidere dicitamus*. There was alſo another kinde of ſcaffold, built quite round, made as it were of two theatres ioyned together, it was called [o] *Amphitheatrum*, and differed from the Theatre, only as the full moone doth from the halfe, or a compleat rundle, from a ſemi-circle: it [o] reſembled an edge. Vpon this kinde of ſcaffold did the Maſters of defence play their prizes, and wilde beaſts were baited [p] *In Amphi-theatro gladiatorij ludi, & concluſarum ferarum venationes exhibebantur*. The *Amphitheatre* it ſelfe in the iudgement of [q] *Lipſius* was tearmed *Cavea, ab interiore parte quæ concaue erat*; And *Arena* becauſe it was ſtrowed with grauell & ſand, that the bloud of ſuch as were ſlaine in the place might not make the place too ſlipery for the combatants. Hence commeth that phraiſe *In arenam diſcendere*, to goe into the field: and the combatants were thence called *Arenarij*. Here we muſt note, that howſoeuer the *Amphitheatre* was ſtrowed commonly with common and ordinarie grauell, yet ſometimes in their extraordinary ſhewes that grauel was couered and as it were new coated, with the ſcrapings & duſt of ſome extraordinary ſtones, to adde the greater luſtre vnto it: thus much [r] *Pliny* intimateth. *Inuênere & alium vſum eius lapidis, in ramentis quoq;. Circum maximum ſternendi, vt ſi in commendatione & candor*. Againe, ſometimes the hollow places or dennes vnder the *Amphitheatre*, in which the wilde beaſts were kept, & likewiſe men to be committed with wilde beaſts, out of which theſe were let looſe by the lifting vp of trappe doores to be hunted or baited vpon the *Amphitheatre*, were called *Cauea*. For we muſt

[n] Cæl. Rhod. lib. 8. cap. 8.

[o] Turneb. ad. verſ. lib. 5. c. 5.

[p] Hoſp. de origi. feſt.

[q] Lipſ. de. Amphitheatr. & 3.

[r] Plin. lib. 36.

know that the *Amphitheatre* was full of hollow passages for many reasons, as for the conuenient keeping of wilde beasts, and beastiaries; so sometimes for the better conueying of waters thither, by the meanes whereof [f] reall ships and sea-skirmishes were often times exhibited vpon the *Amphitheatre.*

Sueton. in Domitian.

Cap. 20.

MOreover for the better vnderstanding of classicall autors, it will not be impertinent to point at the general names, by which the religious places were called: and to declare the proper acception of each name; the names being these, *Templum, Fanum, Delubrum, Ædes sacra, Pulvinar, Sacrarium, Lucus, Scrobiculum, Ara, Altare, Focus.*

De Templo.

[a] Rosin. Ant. lib. 2. cap. 2.

This word *Templum* doth sometimes signifie those [a] spaces, and regions in the aire, and earth, which the *Augures* did quarter out with their crooked staffe at their south-saying.

[c] Lilius Gyrald, de diis gentil. syntag. 17.

Sometimes it doth signifie a sepulchre or graue, [c] because in old times, men did superstitiously pray, and worship at the toombes and monuments of their deceased friends, as if it had beene in *Temples* or *Churches*, and in this sense may *Virgil* be vnderstood;

[d] Li. 4. Ænead. v. 457.

[d] *Præterea fuit antiquo de marmore templum.*
Coniugis antiqui.----

[e] Fr. Sylvius in orat. pro Muren.

Most commonly it doth signifie a Church, or *Temple*: in which sense as often as it is vsed, it is [e] said a *templando*, from beholding; because when we be in the Church by lifting vp our hearts by a diuine contemplation, we doe, as it were behold the great maiestie of God.

De Fano.

It is also called *Fanum, á fando*, from speaking: not from the speaking of the Priest, but because the people doe there

speake

speake vnto God, & God againe to the people. [f] Some are of opinion that *Fanũ* in propriety of speech signified the **Church-yeard**, or court before the Temple: *Templum* signifieth the edifice, or Church built.

[f] Turneb, ad. verſ. lib. 3. c. 9.

De Delubro.

Thirdly, a Church was called, *delubrum Synecdochicῶs*, becauſe it was the principall part of the Church, namely the place where their Idol God ſtood; and it was called *delubrum* from *Deus*: as we call the place where the candle is put, *candelabrum* from *candela*. As concerning the outwarde forme of the Churches, ſome were vncouered becauſe they counted it an hainous matter to ſee thoſe Gods confined vnder a rooſe, whoſe doing good conſiſted in being abroad; other-ſome couered; ſome round, ſome otherwiſe: but within they much reſembled our great Churches. They had their *prondon*, or **Church-porch**, whereabouts they were wont to haue the image of the beaſt *Sphinx*, which was ſo famous for his obſcure riddles: ſo that by this image was ſignified, that the oracles of the Gods, which were treated of within the Church, were darke and myſticall. They had certaine walks on each ſide of the **body of the Church**, which they called *porticus*: and in theſe places it was lawfull for them to marchandiſe, make bargaines, or conferre of any worldly buſineſſe; as likewiſe, in the *baſilica*, or **Body** it ſelfe. But their **Quire** called *Chorus*, was counted a more holy place, ſet a part only for diuine ſeruice. The manner of hallowing it, was as followeth.

[g] Roſin. antiq. lib. 2. c. 2.

[h] When the place where the Temple ſhould be built, had beene appointed by the Augures (which appointing, or determining the place they called *Effari templa*, and *ſiſtere Fana*) then did the party, which formerly in time of neede vpon condition of helpe from the Gods had vowed a Temple, call together the *Aruſpices*, which ſhould direct him in what forme the temple ſhould be built: which being knowne certaine ribbands, and fillets were drawne about the *area*, or plot of ground with flowers, and garlands ſtrowed vnderneath, as it was probable to diſtinguiſh the limits of this

[h] Roſin. ibid.

ground now to be hallowed, Then certaine ſouldiers marched in with boughs in their hands, and after followed Veſtall Nunnes leading young boyes, and maides in their hands, who ſprinkled the place with holy-water. After this following the Prętor, ſome Pontifie going before, who after the *area* had beene purged by leading round about it a ſow, a ramme and a bull, ſacrificed them, and their entralls being laid vpon a turfe, the Prætor offered vp prayers vnto the Gods that they would bleſſe thoſe holy places, which good men intended to dedicate vnto them. This being done the Prætor touched certaine ropes, wherewith a great ſtone being the firſt of the foundation was tyed: together with that other chiefe Magiſtrats, Prieſts, and all ſorts of people did helpe to pluck that ſtone, and let it downe into its place, caſting in wedges of gold, and ſiluer, which had neuer beene purified, or tryed in the fire. Theſe ceremonies being ended, the *Arůſpex* pronounced with a loud voice, ſaying, *Ne temeretur opus, ſaxo, auróue in aliud deſtinato, id eſt*, let not this worke bee vnhallowed by conuerting this ſtone, or gold, into any other vſe.

De Ædeſacrâ.

Fourthly, a Church was called *Ædes ſacra*, an holy houſe, becauſe of the ſacrafices, prayers and other holy exerciſes performed therein. Although (as *Gellius* hath long ſince obſerued euery holy houſe was not a Church. For the proper note of diſtinction between a Church, and a religious houſe was this: that a Church beſide that it was dedicated vnto ſome God, it was alſo hallowed by the Augures, without which hallowing the edifice was not called a Church but a religious houſe: of which ſort was the Veſtall Nunnery, and the common treaſurie, called *Ædes Saturni*. Wee may adde hereunto this word *Puluinar*, [i] which doth often ſignifie a church: the reaſon being taken from a cuſtome amongſt the Painims, who were wont in their churches to make certaine beds in the honour of their Gods, and thoſe beds they called

[i] Bărthol. Latomus in Philippic. 4am.

Pulvinaria

Pulvinaria from *pulvis*, becauſe they were filled with duſt or chaffe.

De Sacrario.

Sometimes [k] *Sacrarium* ſignifieth a temple, though properly it ſignifieth a Sextry or Veſtry, nempe [l] *Sacrorum repoſitorium.*

[k] Cic. pro Milone.
[l] Franc. Sylvius in orat. pro L. Muræn.

De Lucis.

Neere vnto diverſe Temples ſtood certaine groues dedicated to ſome of the Gods: they were called in Latine *Lucи à non lucendo*, as diverſe ſay, by the figure *antiphraſis.* But others are of a contrary opinion, giuing it that name, becauſe of the exceeding light it had in the night time by reaſon of the ſacrifices there burnt.

De Scrobiculo, Ara, & Altari.

The places vpon which they ſacrificed either in their religious houſes, or their groues, were of three ſorts, which wee in engliſh tearme altars; but the Romans diſtinguiſhed thē by three ſeverall names, *Scrobiculus, Ara*, and *Altare.*

De Scrobiculo.

[m] *Scrobiculus* was a furrow, or pit containing an altar in it, into which they powred downe the bloud of the beaſt ſlaine, togither with milke, hony, and wine, when they ſacrificed vnto an infernall God.

[m] Alex. Gen. dier. l. 5. c. 26.

De Ara.

The ſecond kind of altar was called *Ara*, either *ab ardendo*, becauſe their ſacrifices were burned vpon it: or from their imprecations vſed at that time, which in Greeke they called ἀρὰς. It was made foure-ſquare, not very high from the ground, or as ſome ſay, cloſe to the ground: and vpon this they ſacrificed vnto the terreſtriall Gods, laying a turffe of graſſe on the altar: and this gaue *Virgil* occaſion to call thē [n] *Aras gramineas, id eſt*, graſſie altars.

[n] Virg. Æn. 12.

De Altari.

The third ſort was called *Altare*, either becauſe it was exalted, and lifted vp ſomewhat high from the ground; or becauſe

cause he that sacrificed (by reason the altar was so high) was constrained to lift vp his hands *in altum*, on high: o and vpon this they sacrificed vnto their celestiall Gods only.

o Serv. in Bucolic. eclog. 5.

De Foco.

Focus is a generall name, signifying any of these altars. So called *á fovendo*: because as *Servius* hath obserued that is *focus, quicquid fovet ignem, sive ara sit, sive quicquid aliud, in quo ignis fovetur.* But in strict proprietie of speech, it is taken for that altar on which they sacrificed to their domesticke Gods, such as were their *Penates* or *Lares.* As it appeareth by *Plautus* p:

p Aulular. act. 2. Sc. 5.

Hæc imponentur in focum nostro Lari
Vt fortunatas faciat gnatæ nuptias.

Whence ariseth that Adage, *Pro aris & focis certare*, sounding as much as to fight for the defence of religion and ones private estate; or (as our English proverb is) for God and our country; the proverb being in its originall, part of the oath that was administred vnto the Romane Souldiers: and thus it is expounded by q *Turnebus.*

q Turneb. Adv. lib. 10. c. 7

LIB.

LIB. I. SECT. 2.

The generall diuisions of the Romane people.

CAP. I.

De populo Romano, & eius primâ diuisione.

THus hauing premiſed a ſhort Treatiſe concerning the firſt ſituation of *Rome*, and the moſt remarkeable parts thereof, I purpoſe to proceed to the Inhabitants, which antiquitie hath ſtiled Citizens of *Rome*. And *Eraſmus* rather deſcribing a *Romane*, then defining him, ſaith, A *Romane* was graue in his converſation, ſevere in his iudgement, conſtant in his purpoſe: Whence *Cicero* in his Epiſtles often vſeth this phraſe, *More Romano*, for *ex animo, id eſt*, vnfainedly. [a] *Sigonius* rendring the definition of a *Romane* citizen, averreth that no man is *lege Optimâ, id eſt*, in full and compleat manner a citizen of *Rome*, but he which hath his habitation there, which is incorporated into a tribe, and which is made capable of citie preferments. By the firſt particle thoſe which they tearme *municipes*; by the ſecond thoſe which they call *Inquilini*; and by the third thoſe which they call *Libertini* are in a man-

[a] Sig. de iur. Rom. l. 1. c. 1.

ner disfranchised. But whereas *Sigonius* saith that they must haue their habitation at *Rome*, he would not bee so vnderstood, as if a *Romane* citizen might not remoue his habitation to any other country: For, saith he, a *Romane* citizen may be as long absent from *Rome*, and the fields belonging to *Rome*, as he please, so that he suffer himselfe to bee sessed and taxed in common with others toward the subsidie payments, and denieth to be incorporate into another citty. For *T. Pomponius* was a true citizen of *Rome*, though hee dwelt at *Athens*. The *Romane* citizens being by these priviledges as by a more proper and peculiar character distinguished from other people; and being planted in the citty according to the appointment of *Romulus* their King, it seemed good vnto him to divide them into [b] Tribes, not taking the note of distinction only from the diverse places they then inhabited, as we read that *Servius* the sixth king of *Rome* did, making therefore foure tribes τοπικὰς, local, namely *Suburanam*, *Palatinam*, *Collinam*, and *Esquilinam* (which number of local tribes in processe of time increased vnto the number of 35.) but dividing them according to their seuerall nations, which at the first were *donati civitate*, *id est*, made free denizens of Rome: and they being in number three. 1. the *Sabines*, which were named *Tatienses*, from their king *Tatius*. 2. the *Albanes*, called *Rhamnenses* from *Romulus*. 3. other nations promiscuously flocking out of other countries to the *Roman Asylum* placed in a groue called in Latine *Lucus*, which gaue *Romulus* occasion to name them *Luceres*) he made in all three tribes φυλὰς or nationall. After that *Romulus* had thus deuided the whole body of the *Romanes* into three tribes, hee then subdiuided each tribe into ten lesser numbers, which he called *Curiæ* or parishes: and then followed fiue other diuisions in respect of their different degrees, and callings: of which in their seuerall order.

[b] Sigon. de iur. Rom. l. 1. c. 3.

CAP.

CAP. 2.

De prima diuisione Romanorum in Senatores, siue Patres, Patricios, siue Patronos, & Plebeios, siue Clientes.

THe first diuision of the *Romans* in respect of their degree, and place was this. The elder, wealthier, & graueſt sort of *Romanes*, were call d sometimes *Patricij*, either becauſe of their age, and gravity; or becauſe they had many children (for great priuiledges were granted vnto fathers of three children:) and sometimes *Patroni*, becauſe they were as patrons, and fathers in helping and assisting the cauſes of the common people seeking to them. The yonger, poorer, and simpler sort were called, as they had relation to the *Patricij*, *Plebeij*, *id eſt*, the commons; as they had relation to their *Patrons*, they were named *Clientes*, *id eſt*, Clients. betweene whom c there was such a mutuall, and reciprocall entercourſe of loue, & duty, that as their *Patrons* were ready to protect their clients, so the clients were bound withall faithfulneſſe to cleaue vnto their Patrons: & that not only to credit thē with their attendance in publike assemblies, but to disburſe out of their owne purſes towards the bestowing of their daughters, the paying of publike mulcts, the giuing of largeſſes in suing for offices, &c. Neither was it lawfull for either of them to enforme, to depoſe, to giue their voices, or to side with adverſaries one against another without the guilt of treaſon: for which crime of treaſon they were *ayti inferis devoti*, *id eſt*, curſed to hell, and the law gaue liberty for any man to kill them. Out of the *Patricij* did *Romulus* elect 100 counſellers to assist him in determining matters cōcerning the common-weale: to theſe did *Romulus* after adde another 100. and *Tarquinius Priſcus*, as diuers Authors teſtifie, made them a compleat 300. which they called *Patres*, or

c Lazius de Repub. Rom. lib. 12. cap. 3.

Senatores, and their sonnes *Patricij*. But in processe of time the commons also were eligible into a *Senators* place. Some say that *Tarquinius Priscus* added the second hundred to the *Senate* out of the commons,[d] who were called *Senatores minorum gentium, id est*, Senators of the lower house. *Brutus* added the last 100: and made them 300: at what time they began to be called *Patres conscripti*. And this accordeth with *Ioannes Rosa* in his Epitome of the *Roman* history, in his chap *de Regibus Romanis*: where he saith, that *Tarquinius Priscus* did double the number of the *Senators*: And likewise[e] *Alexander Neop.* saith, that *Brutus* made them a compleat 300

[d] Martin. Phileticus in Cic. l. 1. Ep. fam. 1.

[e] Alex. Gen. dier. 2. c. 29.

Cap. 3.

De secunda divisione Romanerum in tres ordines, Senatorium, Equestrem, Populatem, seu Plebeinm.

After that through *Tarquinius Superbus* his tyranny, the very name of a king became odious to the Romans, not only the present king was exiled, but the authority of a king ever afterward detested, and perpetually abrogated: so that the office, which was before monarchical then was diuided betweene two, called Consulls; neither were they admitted for any longer space then one yeare. At which time of change, the *Romanes* were divided into three orders, or ranges, 1. into Senators, of whom before. 2. into Gentlemen, called of the *Romanes ordo Equestris*: by which we doe not vnderstand those 300. *Celeres, id est*, Pensioners, called sometimes *Equites*, for that was a place of service, this a title and token of gentility. Who although they were inferiour to the chiefe Senate, yet they were of great esteeme among the *Romanes*: and although they might not weare the same robe as the *Senators* did, namely the *laticlavium*, or garment bestudded with flourishings of purple silke in manner of broad naile heads; [f] yet they might weare the *angusticlavium*,

[f] Rosin. Antiq. l. 1. cap. 17.

clavium, a garment differing from the former onely in this, because the purple studdes, wherewith it was purfled was narrow, and not so large as the *lati-clavium*. They also at the time of their election receaued from the *Censors* an horse called by them *equus publicus*, because of the yearely allowance out of the common treasury to keepe him: it was also called *equus militaris*, because of their service in warre (g they hauing their horses kept as well in peace as warre.) They receaued also a gold-ring, [h] whereby they were distinguished from the Populacie: for it was not lawfull for any to weare a gold-ring vnder the degree of a *Senator*, or a Gentlemã. The estimation and value of a *Senators* estate [i] vntill *Augustus* his time was *octingenta sestertia*, that is, 6000l. [k] Of a Gentlemans estate it was *quadringenta sestertia*, that is, of our English mony 3000l. 3. The third order, or degree in the *Romane* common-wealth was *Populus*, the populacy, or commons, which should exercise trading, manure the ground, look vnto the cattle, &c. Where by the way wee must vnderstand that the baser sort of the *Romanes*, which did wander vp & downe to and fro, not setling themselues to any vocation, were not contained within this division: for vnto them there was no name vouchsafed: but according to the Poet they were *sine nomine turba*; or as *Livy* saith, *ignota capita*, men of no account, and therefore of no name.

g Lipsius de magnitud. Rom. l. 1. dial. 5
h Alex. Gen. dier. l. 2. c. 29.
i Suet. in August.
k Plin. lib. 33. cap. 2.

CAP. 4.

De tertiâ divisione in Nobiles, Novos, & Ignobiles.

THis division was taken from the right or priviledge of having images; for they were accounted Noblemen, which had the images of their predecessours: Those which had their owne images onely were called *Novi, id est*, late-coyned nobles or vpstarts. *Salust* vseth this

word often in the disgrace of *Tully* calling him *Novum & reptitium civem* one that lately crept into the city. The third sort called *Ignobiles* were those that had no images, neither of their predecessors, nor of themselues. Before we proceed, we must vnderstand, that it was not lawfull for who would to haue his owne image, if he so desired; for none might bee thus priviledged, but those alone to whom the right of riding in a Curule chaire belonged; and to these the right of images was permitted, as well for the credit of their house, as to incite others to the like atchieuemēts, when they would consider the diverse ceremonies vsed vnto these images in an honourable remembrance of those whom they did represent. Whence it followeth, that *Ius nobilitatis* is nothing else but *Ius imaginis*; insomuch that this word [l] *Imago* doth oftentimes signifie Nobilitie: and the right of hauing Images with them, was the same as the right of hauing armes with vs. [m] The superstitious conceipt which the *Romanes* had of these images was such, that vpon festivall daies and all occasions of ioy and mirth, those images should be beautified and adorned with garlands and flowres; vpon occasions of griefe & mourning they would take from them all their ornaments, making them in a manner to partake of their mourning. Some they kept in their private closets, [n] others they expose to the publike view of passengers, placing them in the gates of their houses together with the swords, targets, helmets, shipbeakes, and such other spoiles as formerly they had taken from their enimies; [o] which it was not lawfull for any, though they bought the house so much as to deface. Yea they were so annexed to the freehold that they passed alwaies in the conveyance of the house. The matter of which they were commonly made was waxe, as that of *Iuvenall*, doth sufficiently witnesse.

l Sig. de iur. Rom. l. 2. c. 20.

m Alex. Gen. dier. l. 5. c. 24.

n Barth. Lato. in Verrin. 7.

o Plin. 35. 2.

p Iuv. Sat. 8.

P *Tota licet veteres exornent vndiq; ceræ*
Atria, nobilitas sola est atq; vnica virtus.

Againe we may not thinke that they made in waxe a compleat

pleat statue or a full portraiture of the whole body, but only from the shoulders vpward.

Cap. 5.

De quarta diuisione Romanorum in Optimates & Populares.

THis fourth diuision of the *Romanes* hath beene occasioned through the faction & siding of the citizens. Those (according to the description of [q] *Tully*) were *Optimates, id est*, the best citizens, who desired their actions might be liked, and approued by the better sort. Those *Populares, id est*, popular, who through a desire of vaine-glory, would not so much consider, what was most right, as what should be most pleasing vnto the populacie. So that here by this word *popular*, we vnderstand not the commons, as formerly we did, [r] but be he Senator, Gentleman, or inferiour, if he doe more desire that which shall bee applauded by the maior part, then that which shall be approued by the better part, him the *Romanes* called *Popular, id est*, such a one, that preferreth the popular applause before the right.

[q] Cic. pro Sextio.

[r] Geor. Merula in orat. pro ligario.

Cap. 6.

De quintâ & vltimâ diuisione Romanorum, in Libertos, Libertinos, & Ingenuos: item de Manumissione.

THe difference of the freedomes in the city of *Rome* hath giuen occasion of this diuision: For hee, or shee that had serued as an *apprentice*, and afterward was manumized, was named *Libertus*, or *Liberta*. The son whose father, and mother were once apprentices, was called *Libertinus*, but that sonne whose father and mother were both libertines,

bertines, or both free-borne, [f] yea whose mother only was free, was called *Ingenuus, id est*, freeborne. But after *Appius Cæcus* his Censorship, then began *Liberti* & *Libertini* to signifie one and the same degree of freedome: so that *Liberti* & *Libertini* were taken for those which serued for their freedome, and *Ingenui* were taken for those which were freeborne, whether their parents were *Liberti* or *Libertini*. Here is occasion giuen vs to consider the maner of their freedome, and such ceremonies which belonged therevnto. The freedome of the citie of *Rome* was three waies obtained: first by *birth*, both or at least one of the parents being free and such were called *cives originarij*. Secondly by gift and *cooptation*, when the freedome was bestowed on any stranger, or natiõ, and they were tearmed *civitate donati*: and so we read that *Cæsar* tooke in whole nations into the freedome. Lastly, by *manumission*, which was thus; when as the servant was presented by his master before the Consul or Pretor, the master laying his hand vhon his servants head, vsed this forme of words, *hunc liberum esse volo*, and with that turning his servant round and giuing him a cuffe on the eare he did *emittere servum è manu*: the Pretor then laying a certaine wand or rodde called *Vindicta*, vpon the servants head, replied in this manner *Dico eum liberum esse more Quiritum*. Thẽ the lictor or sergeant taking the wand did strike therewith the servant on the head, and with his hand he stroke him on the face and gaue him a push in the back, & after this he was registred for a freeman. Moreover the servant hauing his head shauen purposely at that time receiue a cappe as a token of libertie whence *ad pileum vocare aliquem*, is to set one at liberty, as likewise *vindictâ liberare*. [u] According to *Tertullian* at this time of their manumission the servants receaued from their masters, a white garment, a gold-ring & a new name added vnto their former. Whose authority if we admit, then the hauing of three names among the Romans was rather a signe of *freedome* then of *Nobility*. And that of *Iuvenall*.

Tan-

[f] Iustin. inst. lib. 1. tit. de Ingenuis. vid. Franc. Sylv. in Catilinar. 4.

[t] P. Ramus in orat. pro C. Rabirio.

[u] Tert. de resur. carn.

Tanquam habeas tria nomina----

Is not to bee expounded, *as if you were a noble man*, but *as if you were a free-man*. Here wee may also consider the two seuerall kinde of seruants: the first were called *serui*, and they could neuer attaine to any freedome, without the concent of their master.[x] For those that were thus *serui* were commonly captiues, either bestowed as a reward vpon this or that souldier, or bought *sub coronâ*, or of other citizens that had gotten them one of those two former waies: the second were called properly[y] *nexi & addicti*, because though they were free, yet by reason of their debt, *addicebantur*, that is, they were deliuered vp vnto their creditors by the Prætor to worke out the debt, so that after the payment thereof, either by mony or worke, they did recouer their liberty: whence they were said[z] *nomina sua liberare*, when they paid the debt: as on the contrary they were said, *nomina facere*, when they became in debt. And their creditors when they sued for the payment were said *nomina exigere*: *nomen* in these and the like places signifying as much as *debitum* a debt.[a] because the creditors did vse to write downe their debters names.[b] The manner of suing for their debts was as it followeth. The debt being confessed, thirty daies were allowed the debter for the payment of the mony (those dayes of respite they called *dies iustos, velut iustitiũ quoddã, id est, iuris inter eos interstitionem & cessationem.*) The mony not payd, the debter was deliuered vp as a seruant to his creditor, yea he was sometimes cast into prison, and vnlesse the creditor were in meane time compounded with, he remained threescore daies in prison, & three market daies one after the other being brought before the Iudge, the debt was solemnly proclaimed, and vpon the third market day, he was either sold to forraigners for a slaue or els was punished with death, each creditor being suffered if he would to cut a peice of his dead body insteed of payment.

[x] Dion. Halicar. lib. 4.

[y] Sig de iud. lib. 1. cap. 31.

[z] Micha. Toxita in orat pro P. Quintio.

[a] Fr. Sil. in epi. virorum illust. l. 1. epi. 6.

[b] Vid. Cel. Rodig. l. 12. c. 20. Item A. Gel. lib. 2. c. 1.

LIB. 2. SECT. 1.

The generall diuiſions of the Romane Gods.

CAP. 1.

De dijs.

THough *Satan* had much blinded the hearts of men in old time, yet was not the darkneſſe of their vnderſtanding ſo great, but that they did eaſilie perceiue, and therefore willingly achnowledge, that there was ſome ſupreame gouernour, ſome firſt mouer, as *Ariſtotle* ſaith: ſome firſt originall of all goodneſſe, as *Plato* teacheth. So that if any made this queſtion, whether there was a God or no? he ſhould be vrged to confeſſe the truth of that rather *argumento bacillino, quam Ariſtotelico*, rather with a good cudgell, then with any long diſpute. But as they where moſt certaine, that there was a God, ſo were they againe very blinde in diſcerning the true God: and hence hath bin inuented ſuch a tedious catalogue of Gods, that as *Varro* averreth, their number hath exceeded thirty thouſand, and proued almoſt numberleſſe. Wherefore I ſhall omit to make any diſtinct treatiſe of the Gods, intending *obiter*, and by the way to ſpeake of them, which either had prieſts, or ſacrifices inſtituted for them. Only I purpoſe to ſhew what is vnder-

stood by those generall distinctions of the Gods, which divers authors haue vsed. *Tulli lib. 2. de legibus* reduceth all vnto three heads, Gods celestiall, which *Varro* calleth select, and others haue styled Gods *maiorum gentium, id est*, of the greater nations, because their power was greater then the others. [a] *Alexander Neapolitanus* saith, that twelue of these were the *Penates*, which *Æneas* did take forth with him at the destruction of *Troy*. *Ouid* calleth them *Deos nobiles*, noble Gods: others call them *Deos consentes, quasi consentientes*, because *Iupiter* would doe nothing without the concent of all. *Ennius* hath diliuered them in this distich,

Iuno, Vesta, Minerua, Ceres, Diana, Venus, Mars,
Mercurius, Iouis, Neptunus, Vulcanus. Apollo.

The second sort of Gods were called *Semidei, id est*, Demigods: [d] also *Indigites, id est*, Gods adopted, or canonized; men deified. For as the select Gods had possession of heauen by their owne right; so these Gods canonized had it no otherwise then by right of donation, being therefore translated into heauen, because they liued as Gods vpon earth: but because their merit was inferior, and could not parallel the deserts of the Gods select, therefore were they called Gods of inferior note. [c] *Seruius* would haue these called *Diui*: obseruing this difference betweene *Dij* and *Diui*, that *Dij* should signifie those which had bin Gods perpetually, but *Diui* should signifie men made Gods, though commonly they are vsed one for another. Whence they called all their Emperours *Diui*, because for their deserts they thought them worthy to be Gods. Now the [d] manner how a man became deified was this: The party to be canonized being dead, a pile of wood was made in forme of a great tent, or tabernacle, with three other lesser tabernacles one vpon top of another, the lowermost hauing in it dry cumbustible matter, but in the out-side adorned Richly with gold, Ivory, and painted tables: Hither the dead corps was to be carryed with great solemnities; the Senate, the gentlemen, and all the

[a] Alex. Gen. dier. l. 6. c. 6.

[b] Seruius in lib. Georgic.

[c] In Æneid. lib. 5.

[d] Rosin. Ant. lib. 3. c. 18. vid. Hospiniam de orig Christ. F. p. 21. Vid. exemplum huius consecrationis in Seueri sepultura. Herodian: lib. 4. p. 298.

the chiefe magistrats going before, with hymnes and songs, and all kinde of honour, which was to be perfourmed euen to the Gods themselues. He being in this manner brought, and laid within the second tabernacle, the fire was kindled, by him who was to succeed in the Empire for I finde none canonised but onely Emperours at their decease forthwith at the kindling of the fire, a liuing eagle was let fly from the top of the tabernacle which was supposed to transport the soule of the dead body into heauen, in so mueh that euer after he was canonized amongst the Gods, & worshipped as a God. And because they were thus turned into Gods, some haue called them *Deos animales*, [e] *quoniam animæ humanæ verterentur in Deos.* This canonization was by the Greekes teermed ἀποθέωσις, by the Latines *consecratio.* The third sort were those morall vertues, by which as by a ladder men climed into heauen: and therefore did men stile them Gods, because by their meanes men became deified. Late writers perceiuing that all the number of the Gods could not bee reduced vnto these three heads, haue added a fourth sort which they [f] call *Semones, quasi semi-homines,* because ancient writers, as *Rosinus* hath obserued, called men *hemones*, not *homines.* In which point I shall willingly condescend vnto him; but I shall leaue to the iudgment of others, to determine how iustly he hath restrained the Gods *minorum gentium*, of the lesser nations, only vnto this last *classis*: whereas my opinion is, that the demy-gods, the morall vertues which haue beene styled Gods, and these *Semones*, may all of them be called Gods of the lesser nations standing in opposition with the Gods select, which are called Gods of the greater nations. But that wee may vnderstand what is meant by these *Semones*, we must remember that by them are signified vnto vs not those Gods, which do appertaine to man himselfe, but to the necessaries of mans liuing, his victualls, his cloathing and the like: not to the being of a man but to the well being of him, of which sort is *Salus, Fortuna*, with others. We read likewise of other names

[e] Serv. in Æn. lib. 3.

[f] Rosin. antiq. lib. 2. c. 19.

giuen in common to diuers Gods, not as opposite members of a diuision, but as notes of distinction drawne from the diuersity of helpe, which they severally did aford vnto man. In this respect some were called *dij Patrij*, or *tutelares*, such as had vndertaken the protection of any citie, or towne which opinion had sometimes beene entertained by our Englishmen, and thence haue risen these, and the like speeches **S. George for England, S. Denis for France, S. Patricke for Ireland**, &c. And the Romans being fully perswaded of the truth thereof, whensoeuer they went about to besiege any towne, by certaine enchantments, or spells they would first call out these Tutelar Gods; because they deemed it matter impossible to captiuate the city, as long as these Gods werewithin; or at least they thoughe it a crime vnexpiable to take the Gods as prisoners. And least other nations might vse the same meanes in besieging Rome, therefore, [g] as diuers authors haue thought, the true name of the Romane city was neuer knowne, least thereby the name of their Tutelar God might be descryed. Others namely the *Tyrians* haue tied fast their God *Hercules* with a golden chaine, thereby the more to secure themselues of his residence among them. [h] Others haue beene called *Dij communes*, namely *Mars Bellona*, and *Victoria*, because in time of war they are not bound to either side: but sometimes they helpe one side and sometimes the other. And as they supposed some Gods to haue the protection of whole countries, so did they beleeue that others had the charge of particular men; and that so soone as any man was borne two spirits did presently accompany him inuisibly, the one tearmed the *bonus Genius*, or good angell, perswading him to that which should be good: the other called the *malus Genius*, or euill angell, tempting him to that which should be hurtfull: insomuch that they thought all the actions of men to be guided by these angels called *Genij*, so that if any misfortune befell a man, they would say that the matter was enterprised *Dijs iratis, id est*, our *Genius* being displeased with vs. *Virgill* calleth

[g] Syluius in epist virorum illustrium.

[h] Alex. Gen. dier. l. 6. c. 4.

leth these bad Angels *Manes*, as it appeareth by that, *Quisq; suos patitur manes*, *id est*, Euery man hath his euill Angell, *id est*, some misfortune. These *Genij* were thought to be a middle essence betweene men & Gods: They are therefore called *Genij*, because they haue the tuition of vs so soone, as we are *Genits, id est*, borne, it is most certaine that old autors vsed *Geno*, for *Gigno* whence [i] *Tulli* saith, *si mihi filius genitur*, and [k] *Varo Antequam genat siliquas*, although every place had also his *Genius*, as hereafter shall appeare. This opinion was the more confirmed by a vision which appeared vnto [l] *Brutus* in *Asia* neere vnto the time of his death: for *Brutus* watching vpon a certaine night in his pauilion, the candle being neere spent, saw a fierce tragicall person appeare vnto him, somewhat bigger then a man, & he presently being of an vndaunted spirit, demãded whether he were a God or a man? To whome the vision answered, *Brutus* I am thy evill *Genius*, which haunteth thee, thou shalt se me at the citie *Philippi* againe, and the same vision appeared vnto him, as he was fighting at *Philippi*: which was the last fight that euer he fought. and because *Iuno* was wont to be invocated in the time of Childe-birth therefore many haue thought that euery mã hath not his two Angels but one Angel, & *Iuno* to obserue him, but it is agreed vpõ by best autors, that as the angels or spirits which did attend men were tearmed *Genij*: so those which guarded women were tearmed *Iunones*. This *Genius*, as oftẽ as he is vnderstood for the good or evill *Angell*, which hath charge of a mans body, is painted in forme of a man as we read did appnare to *Brutus*; though some time he is painted as a young boy, sometime as an olde decrepite man, [m] but alwaies with a crowne of plane-tree, which therefore was called *genialis arbor*, in the right hand he held a platter ouer an alter garnished with flowers: in the left he held a scourge hanging downe. The sacrifice that was performed vnto the *Genius* was wine, and flowers: whereupon (as if by wine and fragrant odors, were signified all kinde of plea-

[i] Cic. lib. 2. de orat.
[k] Varro Rei. Rust. li. 1. c. 31.
[l] Plut. in Brut.
[m] Rosin. ant. lib. 3. cap. 14.

pleasures) certaine proverbiall speeches haue beene occasioned: as when we see a man giuen much to his pleasure, and dainty feeding, we say he doth *indulgere genio, id est*, pampior or make much of his *Genius*: on the contrary he that is abstemious and debarreth himself of his pleasure, and dainty feeding, is said *defraudare Genium*, to defraud his *Genius*: & *genialis* signifieth iocund or pleasant. [n] It was also the custome after meales to haue a cup passe round the table, much like vnto our *poculum charitatis*, & it was called *poculum boni genij*. [o] The *Grecians* had a like custome, whence that cuppe was called by them, κρᾶσις ἀγαθοῦ δαίμονος. But the reason, why they would not sacrifice vnto their *Genius* by kindling some hoast, as they did to their other gods, was, because they iudged it vnfit to depriue any creature of his life vpon that day, when they first began their life (for this sacrifice was perfourmed yearly by euery one vpō his birth day) *Horace* notwithstanding doth more then intimate the killing of a young pigge in that sacrifice

n Vid. Erasm. adag.

o Cel. Rhod. lib. 28. cap. 6.

---cras Genium mero
Placabis, & porco bimestri. Hor. lib. 3. Od. 17.

The other *Genius* which is supposed to haue chief power ouer high waies and places, being therefore called *Genius loci*, was pictured in forme of a Snake, in which forme *Virgil* fained him to haue appeared, to *Æneas*, when he performed the funerall rites due vnto his Father *Anchises*, *Ænead. lib.* 5,

---Adytis cum lubricus anguis ab imis
Septem ingens giros, sceptena volumina traxit.

And *Persius*.

Sat. 1.

Pinge duos angues, pueri sacer est locus, extra.
Meyte, id est, duos Genios.

[p] Another sort of Gods was supposed to haue the keeping of mens houses: which they painted in forme of a dogge because those to whom the charge of houses is committed ought to resemble doggs, that is to seeme fierce, and angry towards strangers, but gentle & kinde to those of the house-

p Franc. Sylv. in orat. pro Sext. Rosc. Am.

hold

hold other properties wherein these *Lares* do resemble dogs are recited by *Ovid. Fast. 5.*

Servat vterq; domum, domino quoq; fidus vterq; est:
Compita grata Deo, compita grata cani:
Exagitant & lar, & turba Diania fures,
Pervigilantq; lares, pervigilantq; canes.

They were named *Lares*, & because of the charge, they had over mens houses, this word *Lar* is sundry times taken for an house it selfe, as *parvo sub lare, Horat.* In a little cottage, *homo incerti laris, id est*, a man that hath no house to dwell in. *Sen in Med.* And the custome in sacrificing vnto them, was to eat vp all whatsoeuer was left at the offering, for they thought it an heinous matter to send any of that sacrifice abroad, either among their friends, or the poore: and thereupon when wee see a glutton leaue nothing in the platter, not so much as the curtesi-morsell, we say *Lari sacrificat, id est*, he sacrificeth to his household God.

LIB. 2. SECT. 2.

Of the Roman Prieſts with ſome particular Gods.

FAunus the ancienteſt of all the kings in *Italie* was the firſt, that brought any forme of religion into *Italie*. He conſecrated groues, gaue names vnto Cities, erected Temples, ordained ſacrifices, &c. from whom the Churches, as ſome ſay, were named *Fana*. But after *Faunus*, *Evander* comming out of *Arcadia*, and afterward being king of *Latium*, he inſtituted, and appointed many other ceremonies, which before were vnknowne to the Latines. After him *Æneas* comming from *Troy*, taught many of the *Troian* ceremonies: by whoſe examples *Romulus* and *Numa* were incited to adde many other kindes of holy rites, and at length reduced their whole religion into a certaine order, eſpecially *Numa* who that hee might gaine the more credit and authority to his new invented ſuperſtitions feigned that he had conference about them every night with the goddeſſe *Egeria*. My intent therefore is, to ſpeake firſt of the God, in whoſe honour theſe holy rites were performed, and then to deſcend vnto the Prieſts, which were to performe them, ſhewing withall the ceremonies they vſed in the performance.

Lact. de fall. rel. l. 1. c. 22.

CAP.

Cap. 1.

De Pane Lyceo, sive Iuno: de Lupercis, & Lupercalibus.

Pan was supposed to be the God of the sheep-heards, and is [a] thus described: he is pictured naked, hauing hornes in likenesse of the sunne-beames, a long beard, his face red like the cleere ayre, in his brest the starre *Nebris*, the neather part of his body rough, his feet like a Goat: in one hand he holdeth a pipe, in the other a sheep-heardes crooke, and alwaies is imagined to laugh. [b] Hee was worshipped first in *Arcadia*, and there called the God *Pan Lycaeus*, but afterward hee was had in great esteeme at *Rome* [c] and in the honour of him certaine sacrifices, and games called *Lupercalia* were solemnized by the *Romanes*. [d] There he tooke the name *Inuus*, or as some say *Iunus*. Concerning the time, when these sacrifices were to be performed; it was vpon the [c] vnfortunate daies of the month *Februarie*, which hath his name *à februando*, from purging: whence the feast or game is as a purification; though the Latine word signifieth as much as a feast of wolues, in a memoriall that *Romulus* and *Remus* were nursed by a shee-woolfe. This seemeth very probable, because the Priests, which were called *Luperci* beganne their course at the foot of the mount *Palatine*, called by the *Romans Lupercal, id est*, the place, where the woolfe nursed [f] *Romulus*. The ceremonies were these: the hoast (being two Goats) was to bee slaine; and two Noble mens sonnes were to bee present, whose foreheads being blouded with the kniues of them that had slaine the Goats, by and by were to be dried vp with wooll dipped in milke. Then the young boyes must laugh immediatly after their foreheads were dry. That done they cut the goats skins, & made thongs of them, which they tooke in their hands, and

[a] Servius in Virg. Ecl. 2.

[b] Feneſt. de sacerd. cap. 1.

[c] Feneſt. ib.

[d] Pomponius Laetus de Sacerdot. cap. de Luper.

[e] Plutarch. in Romulo.

[f] Plutarch. in Romulo.

ran with them all about the citie ſtark-naked (ſaving they had a cloath before their privities) and ſo they ſtrooke with thoſe thongs all they met in the way. The young wiues did never ſhun them at all, but were well contented to bee ſtriken with them; beleeuing it helped them to bee with childe, and alſo to be eaſily deliuered. Moreouer it is to be noted, that a dogge was ſacrificed at this time, becauſe there is a naturall antipathie, or contrarietie of nature, betweene the dogge and the woolfe: whereby *Romulus* thought to teſtifie his gratefulneſſe vnto the woolfe for her paines in nouriſhing him. The reaſon why the Prieſts ran vp and downe the ſtreets naked, was, becauſe that *Pan* the God of this ſacrifice was painted naked. As the feaſt, ſo alſo the place from whence they came, and likewiſe the Prieſts had their names *à Lupa*, which ſignifieth a woulfe. Some Authors haue obſerued three ſorts of the *Luperci*, ſome called *Fabiani*, ſome *Quinctiliani*, from *Fabius* and *Quinctilius* their gouernours: the third ſort, which [g] *Roſinus* affirmeth to haue beene added in the honour of *Iulius Cæſar*, I cannot find according to his quotation in *Suetonius*. But thus much *Suetonius* ſaith in [h] another place, namely that *Auguſtus Cæſar* when he was chiefe Pontifie did reſtore theſe games againe being formerly aboliſhed.

[g] Roſin. ant. lib. 3. cap. 2.

[h] Sueton. in Auguſt.

Cap. 2.

De Cerere, & ſacris eius.

Ceres otherwiſe called *Eleuſina* was honoured firſt among the *Grecians*, afterward among the *Romans*, as a Goddeſſe, which firſt taught men the skill of huſbandry.

Prima Ceres ferro mortales vertere terram
Inſtituit. Virg. Georg.

Whence ſhee is ſometimes *metonymicũs* taken for corne, as

Credenda

Credenda Ceres arvis. Ovid. It is seed time. She is called *Ceres, quasi Geres, á gerendis frugibus*, from bearing fruit: because, as some say, by *Ceres* is vnderstood sometimes the earth it selfe: whence also δημήτηρ being the Greeke name of *Ceres* is said *quasi γῆ μήτηρ, id est*, the earth, which is the common mother of vs all. [k] Shee is painted in the habit of a Matron wearing a garland of corne, sometime sorrowfull with a lampe in her hand, as if she were seeking out her daughter *Proserpina* carried by *Pluto* into hell; and sometime with a handfull of corne or poppy-seed. Vpon the fift of the Kalends of Aprill the *Romans* were wont to performe sacrifices vnto her, which they called *sacra Græca, id est*, the Grecian sacrifices, as likewise they tearmed the chiefe woman which did performe them, *sacerdotem Græcam, id est*, the Greeke Ministresse, because they were translated into *Rome* out of *Greece* by *Evander*. The time of their solemnities was at the dawning of the day, and the Priests, which were only women which ran vp and downe with lamps in their hands in manner of mad women; into whose temple none that was guilty of any fault committed might enter: whose mysteries were to be buried in silence, and by no meanes to be blabbed abroad. And as it is to be supposed, that was the reason why all wine was forbad in this sacrifice. So that hence [l] we say *Cereri sacrificat*, he sacrifices to *Ceres*, when he maketh a feast without wine.

[i] Cic. lib. 3. de nat. Deor.

[k] Rosin. ant. lib. 2. cap. 11.

[l] Plautus in Aulularia.

Cap. 3.

De Potitijs, & Pinarijs, Herculis sacerdotibus.

Hercules had an altar erected in the memoriall of him neere vnto *Tiber* by *Evander*, vpon occasion of the heards-mens complaint brought vnto *Evander* of him, whom they accused to haue slaine their chiefe heardsman *Cacus*, the history being [m] thus. *Hercules* after his con-

[m] Serv. Æn. lib. 8.

queſt ouer *Geryon* brought away with him certaine goodly Oxen, and as well to reſt himſelfe, as to paſture his Oxen, he laid him downe to ſleepe in a greene field neere the riuer *Tiber.* In the meane while a certaine heards-man called *Cacus* happened to come that way, and perceiuing *Hercules* to bee in a ſound ſleep, he ſtole away two of his Oxen, which he hid in a caue, or hollow rocke, pulling them in by the taile backward, thinking that *Hercules* when he ſhould look his oxen and ſee the print of his footſteps, would eaſily beleeue, that his oxen had rather gone out from that rocke then into it, as indeed he did for a time beleeue: but afterward by the bellowing of the oxen within, anſwering their fellows without, *Hercules* entred the rock, and finding the theefe *Cacus* there with his oxen, he killed him, by reaſon of which murder he was brought before *Evander*, and after a while knowne to be the *Hercules*, of whom the Propheteſſe *Carmenta* had foretold vnto *Evander*, that he ſhould be a God. Whereupon *Evander* preſently ſaluted him by the name of *Hercules* the ſonne of *Iupiter*, and in honour of him cauſed an altar to be built there in that place: vpon which yearely was to bee offered vp an heifer which had never borne yoke; and that this ſacrifice might bee had in the more eſteeme, two Noble men well ſtroken in yeares, and of good repute among the *Romans*, one of them being called *Potitius*, and the other *Pinarius* were appointed as the Prieſts to performe theſe ſacrifices, from whom ever after *Hercules* his Prieſts were called *Potitij*, and *Pinarij*. Where by the way we muſt obſerue, that *Pinarius* was not the ſur-name of this Noble-man, but a name added vnto him, intimating his, and his ſucceſſo[rs] puniſhment for not comming ſoone enough according to the time appointed by *Hercules*. For, as [n] diverſe writers teſtify, the entralls of hoaſt were almoſt eaten vp by the family of *Potitius*, before *Pinarius*, and his familie came; and in puniſhment of their negligence *Hercules* enioined the *Pinarij* never after to eat of the entrals, giuing them this name *Pinarij* at that

[n] Serv. Æneid. lib. 8.

that time, from the Greeke word λιμὸν signifying hunger.

Cap. 4.

De Fratribus arvalibus.

THis College or company of Roman Priests may be Englished *the Arvall fraternity*: the number of them being twelue, eleuen of them naturall brothers, sons to *Acca Laurentia Romulus* his foster mother; [o] for which respect *Romulus* yeelded himselfe her adopted sonne, instituting this order in the honour of *Ceres* and *Bacchus* for the plentie of wine and corne vnto whom they did offer vp certaine sacrifices called *Ambaruales hostiæ, quod antequam mactarentur ter circum arua ducebantur*, according to that of *Virg. Georg.* *Terq; nouas circum felix eat hostia fruges*, that they being therewith appeased might the willinger cause the earth to fructifie, & added himselfe to the former eleuen as the twelfth priest or brother to helpe in the performance of this publike sacrifice, moreouer beside the performance of this sacrifice, these twelue were appointed *arbitrators*, or iudges to decide controuersies cõcerning landmarks and bounds of the field, from whence they tooke their name *Fratres Aruales*. Their sacerdotall ornaments was a garland of wheat bound vp with a white riband, this being, as [p] *Pliny* writeth, the first crowne, or garland amongst the Romans.

[o] Feneſt. de Sacerd. c. 3.

Hoſp. de orig. Monach. c. 10.

[p] Plin. lib. 17. cap. 2.

Cap. 4.

De sexaginta Curionibus.

AFter that *Romulus* had diuided the whole body of the Romans into three tribes, or wardes, and subdiuided those three wards into thirtie parishes, called *Curiæ*, he ordained out of each *Curia* two parish Priests or Curats called *Curiones*, or *Flamines curiales*; which were pub-

publikely to offer vp sacrifice in the behalfe of the people. Neither was every one equally capable of this honour of Priesthood; q but he was to be at the least fiftie yeare olde, of a life vnspotted, and a bodie vnmaimed. And over all these there was one which had chiefe rule, and therefore was called *Curio Maximus*, the Bishop, or chiefe Prelate: and these sacrifices were called *Curionia*. r Their sacrifice being ended each parish had a feast in a common hall built for that purpose: it was called *Domus Curialis*, and sometimes *Curia*.

q Dion. Hal. lib. 2.

r Dion. Hal. lib. 2.

Cap. 6.

De Auguribus, & eorum Collegio.

AMongst other kinds of Fore-tellers we read of three principally vsed in former time, namely, *Aruspices*, *Auspices*, & *Augures*: all which we english Soothsayers, though the Latine words doe import a maine difference worth our obseruation: all are alluded vnto by *Ovid.*

Hoc mihi non ouium fibræ, tonitrusve sinistri,
Linguaue seruatæ pennaue dixit auis.

Ovid. trist. l. 1. Eleg. 8.

The *Aruspices* did diuine, or foretell things to come by beholding the entrals of beasts sacrificed: whence they had their name. *Ab aras inspiciendo*, frō beholding the altars. The *Auspices* did foretell things by beholding the flight of birds, so that *Auspices* are said *quasi auispices*, *ab aues aspiciendo*. The *Augures* did diuine frō hearing the chatting or the crowing of the birds: whence they are called *Augures ab auium garritu*, from the chirping and chatting of birds. These two last kinds of soothsaying haue occasioned these, and the like phrases, *bonis auibus*, or *auspicijs*, with good lucke, *malis auibus*, *id est*, with ill lucke: and because they would beginne nothing *inauspicato*, *id est*, without the counsell of the *Augures*, hence *Auspicari rem* hath beene translated, to beginne

s Fr. Sylv. in orat. pro Cluentio.

ginne a matter. The colledge of the *Augures* at Rome was first appointed by [v] *Romulus* himselfe being very expert in soothsaying, there being at the first but three, namely one of each tribe: (The word *Augur* being not taken in his owne proper sense, and signification aboue-mentioned; but generally by the trope S*ynecdoche*, signifying all kinds, and sorts of diuining whatsoeuer, whether it were by obseruing the entrals of beasts, the flying, screeching, and chatting of birds, or thundring, or lightning in the heauen, or marking the rebounding of crumms cast vnto birds, which kinde of diuining was called *Tripudium*.) [x] *Seruius Tullius* the sixt Romane king, when he diuided Roome into foure locall tribes: *id est*. Regions, or quarters, then did he adde the fourth *Augur*, all of them being elected out of the *Patricij*, or the nobility of Rome. [y] In processe of time *Quintus*, and *Cnius egulinus* being chosen *Tribuni plebis*, *id est*, protectors of the commons, obtained that fiue other *Augures* should be chosen out of the commonaltie, and added vnto the former foure: at which time the Senate decreed that the colledge of *Augures* should neuer exceed the number of nine. [z] Notwithstanding *Sylla* being *Dictator* added six more, insomuch that their colledge encreased to the nnmber of fifteene: the eldest of which was called [a] *Magtster Collegii*, the master, or *Rector* of the colledge. The *Augures* excelled other Priests in [b] this respect, because if any of them had beene conuinced of any heynous crime, he did not loose his office, neither was any other subrogated into his roome, although the Romane custome was, that if any other priest had committed any notorious offence hee should presently be discharged of his office, and another chosen in his place. [c] The manner how the *Augur* did obserue was this: He sate vpon a castle, or a towre, the ayre being cleere, and faire without clouds, or raine, holding a crooked staffe, (called in Latine *Lituus*) in his hand, where sitting in his southsaying robe, called *Lana*, and in Greek χλαῖνα, παρὰ τὸ χλαίνειν, *à calefaciendo*, from heating, because it was well

[u] Pomp. Lætus cap. de Augur.

[x] Rosin. antiq. lib 3. cap. 8.

[y] Rosin. Ibid.

[z] Rosin. id.

[a] Alex. Gen. dier. l. 5. c. 19.

[b] Alex. ib.

[c] Pomp. Lætus, c. de Aug.

lined within, being garded in the out side with purple and crimson gards) hauing his head couered, and his face turned toward the east, so that his back was west-ward, his right side south-ward, and his left north-ward. Being thus placed he quartered out with his crooked staffe the heauen into certaine *templa, id est*, Regions, or places, obseruing in what region the birds did appeare: Then killing his sacrifice, and offering vp certaine prayers called *Effata*, he proceeded in manner as followeth. But first suppose we for our better vnderstanding hereof, that now the *Augures* were to resolue the people, whether the Gods would assent that *Numa Pompilius* should be King. The *Augur* hauing done as aboue is shewed, his *Lituus* being in his left hand, he reached forth his right hand putting it vpon *Numa Pompilius* his head, vsing this forme of words, *Iupiter pater, si fas sit Numam Pompiliũ, cuius ego caput teneo, regem Romæ esse, vt in nobis signa certa, ac clara sint inter eos fines, quos feci, id est*: If it be lawfull for this *Numa Pompilius*, whose head I hold to be king of *Rome*, shew some manifest tokens within these regions, or quarters which I haue described. Then if he obserued luckie signes & tokens, he presently pronounced *Numa Pompilius* king of *Rome*: if he perceiued vnlucky tokens, then did he *obnunciare*, or gainesay, and shew that the matter proposed was not pleasing to the Gods. Whereby the way we must note, that nothing was confirmed by the *Augurs* without the appearance of two lucky tokens one after another; neither was any thing gainesaid by the appearance of one only euil token. The distinctiõs of the soothsayings haue beene takẽ, some from the event, & thence are they called *prospera*, luckie, or *aduersa*, vnluckie. Some from the manner of their appearing, [d] and that was either wished being called therefore *impetratiua*; or vnwished caled *oblatiua*. Some from the diuersity of things which offered themselues in time of diuining, and so there were fiue distinct sorts: The first was by the obseruing of lightning, and thunder from heauen; the second from the flying, and chatting

[d] Serv. Æneid. lib. 6.

chatting of birds; the third from bread caſt to pullets, or little chicken; the fourth from foure footed beaſts, which either ſhould croſſe the way, or appeare in ſome vnaccuſtomed place; the fift from thoſe caſualties, whereby the Gods doe make their anger appeare vnto vs. Of this ſort are thoſe voices which we heare we knownot whence; (as [c] *Cadmus* heard when he ouercame the ſerpent) the falling of ſalt towardes vs at the table, the ſhedding of wine vpon our cloaths. From which caſualties, and the like the *Augures* would pronounce either good fortune, or bad to enſue: And theſe tokens were therefore called *Dira*, becauſe thereby *Dei ira nobis innoteſcit*, the Gods anger is made knowne vnto vs. Now the things that in diuining time appeared on the left-hand where commõly tokens of good lucke, becauſe the giuers right hand in beſtowing a benefit is oppoſite to the receiuers left hand. Whence [f] *ſiniſtrum* though in humane affaires ſignifieth as much as vnluckie, yet in thoſe holy rites of diuining *ſiniſtrum* is taken in a contrary ſenſe as *Avis ſiniſtra*, good lucke, *Intonuit lævum*, it hath thundered luckily, we ſhall haue good ſucceſſe: and it is ſaid a *ſinendo*, becauſe the Gods thereby doe ſuffer vs to proceed in our purpoſed proiects. And therefore *Tully* ſaith, *lib. 1. de divinatione*, *A ſiniſtrâ cornice ratum, & firmum augurium fieri*: and in the law of the 12 tables it is ſaid, *Ave ſiniſtrâ populi magiſter eſto*, [d] The *Grecians* from hence in the iudgement of *Lipſius* haue called the left hand ἀριστερὰν from ἄριστον ſignifying the beſt.

[c] *Vox ſubito audita eſt neq; erat cognoſcere promptum Vnde, ſed audita eſt* Ouid. Met. lib. 3. fab. 1.

[f] Serv. Æneid. lib. 2.

[d] Lipſ. Elect. lib. 2. cap. 2.

Cap. 7.

De Tripudiis & pullariis.

THis kinde of coniecturing is called *auſpicium coactũ*, [g] *quoniam neceſſe erat offâ obiecta cadere fruſtum ex pulli ore, cùm paſcitur*. The word *Tripudium* is vſed by a *ſyncopation* for *terripudium*, which is as much as *terripavium*

[g] Cic. de diuinat. lib. 1.

vium, id est, a dancing or rebounding of any thing vpon the ground: for *pavire* is the same with *ferire*. [h] Others say *Tripudium quasi tritio pedum*. It is here taken for the diuining, or coniecting of good or euill to come by the rebounding of crummes cast to chicken in a coop or pen: whence the *Augur* from these pullets or chiken was called *Pullarius id est*, A Bird-prophet. [i] The manner in obseruing was this. As often as by this kinde of coniecting they desired to know the Gods pleasure concerning the enterprizing of any matter, early in the morning those that were skilfull in this kinde of obseruation, repaired vnto the place where the chicken were kept, where silence being commanded, and the coope opened, they cast crummes of bread to the chicken. Now if the chicken either came slowly, or not at all vnto the bread, or if they walked vp and downe by it not touching it, then was it a token that the matter to be enterprized was displeasing vnto the Gods: but if contrarily the chicken did hastily leape out of the coop and eate so greedily of the crums; that some should fall out of their mouths againe, then the *pullarius*, that is, the *Augur* pronounced that it was well pleasing to the Gods, and encouraged the enterprizing of what they had intended cheerefully: and this was called *Tripudium solistimum*. This kinde of coniecting may seeme to haue its originall from the *Lycians*, [k] who as often as they desired to foreknow the successe of any enterprise, they went vnto the fountaine dedicated to *Apollo*, into which they cast baites for the fish: now if the fishes did eate them, it did betide goodlucke; if otherwise they neglected the baites, then it did betoken some euill euent.

[h] Humbert. in lib. 6. Ep. fam. Cic.

[i] Alex. Gen. dier. l. 1. c. 29.

[k] Alex. ib.

CAP.

Cap. 8.

De Aruſpicibus, Aruſpicinâ, & Extiſpicio.

THis kinde of ſoothſayers as they were called *Aruſpices ab aras aſpiciendo* from beholding the beaſt vpon the altar; ſo were they called *Extiſpices, ab exta aſpiciendo*, from beholding the bowels or entrals of the beaſt, called in Latines *Exta*. In this kinde of ſouthſaying the *Aruſpex* obſerued in mãner as followeth[l]: firſt whether the beaſt to be ſacrificed came vnto the altar willingly, without plucking and haling; whether he died without much ſtrugling, or lowd bellowing; at one blow or many; whether any vnluckie obiect were ſeene, or heard by them, whiles they were ſacrificing. Againe after the beaſt was ſlaine, then would they obſerue, whether the bowels were of an vnnaturall colour, whether they were not vlcerous, exſiccate, or impoſtumated: moreouer they would diuide the bowels into two parts, the one they woulde call *partem familiarem*, from whence they would fore-tel what would befall themſelues, and their friends; the other they would call *partem hoſtilem*, whence they gathered predictions touching their enimies Hence *Manto* in [m] *Seneca* deſcribing the entrals of his killed ſacrifice ſaith, *Hoſtilo valido robore inſurgit latus*, meaning by *hoſtile latus, partem hoſtilem*. Afterward when the ſacrifice was to be burned, they conſidered, whether the flame of the fire was ſmokie, whether the ſmoke rolled, and tumbled in the aire, whether it were of any continuance or no: for all theſe were vnfortunate tokens, as the contrary did betoken a good and fortunate iſſue to their deſignments. Theſe laſt which obſerued the fire and ſmoke were called by a more peculiar name *Capnomantes* ſmoke-augurers from the greeke words καπνὸς ſignifying ſmoke, & μάντις, *id eſt*, *vates*, or a ſouthſayer. The firſt inſtructiõs that the *Romans* receiued

l Senec. Ged. Act. 2. ſen. 2.

m Oedip. Act. 2. ſcen. 2.

was from the *Hetruſci*,(who as they themſelues ſay)receiued their knowledge from a little boy, which they named *Tages*, the hiſtory being thus. [n] When the *Hetruſci* were plowing their lands, vpon a ſuddaine vpſtarted this *Tages* out of one of the furrowes vſing diuers ſpeeches vnto the plow-men: but they being much affrighted at this ſudden,&ſtrange viſion, beganne with a lowd cry to lift vp their voices;vpon occaſion whereof many other people flocked thither, where he gaue many good inſtructions concerning this kinde of ſooth-ſaying, which were preſently recorded in books,and practiſed afterward by the *Hetruſci*.

n Cic.de diuinat. *Indigenæ dixere Tagem, qui primus Hetruſcam edocuit gentem, caſus aperire futuros* Ovid. Met.lib.vlt.

Cap. 9.

De Flaminibus

THe mitre or head-ornament which theſe Prieſts did weare. was called in old time [o] *Flama*, whence the Prieſts tooke their name *Flamines*. The [p] cuſtome amongſt the *Grecians*, as likewiſe afterwards among the *Romanes* was, that the kings ſhould aſwell performe ceremonies, and holy rites of religion, as ciuill buſineſſes. But *Numa Pompilius* perceauing that forraine warres did oftentimes occaſion the kings abſence, in ſo much that thoſe religious ceremonies which he himſelfe perſonally ſhould perfourme were of neceſſity ſometimes neglected, hereupon he ordained out of the *Patricij* three Prieſts to perfourme that diuine ſeruice vnto *Iupiter*, *Mars*,aud *Romulus*,which he himſelfe otherwiſe ought to haue perfourmed,calling the firſt *Flamen Dialis*,the other *Flamen Martialis*, and the laſt *Flamen Quirinalis* from *Romulus*, which was often called *Quirinus*.

o Roſin. antiq. lib.3.c.15.

p *Rex.Anius. rex idem hominum Phæbiq; ſacerdos.*Virg.

Siue quòd haſta quiris priſcis eſt dicta Sabinis,
Bellicus a telo venit in aſtra deus.
Siue ſuo regi nomen poſuere Quirites.
Seu quia Romanus iunxerat ille Cures.

In

In processe of time twelue others chosen from the commons were added vnto these, but with this note of distinction, that the three first were had in greater esteeme, and were called *Flamines maiores*, high Priests; the other of lesse note called *Flamines minores*, inferior Priests. The chiefe of all was the *Flamen Dialis Iupiters* high priest, and whereas euery one did were acertaine bonnet in forme of a mitre, which sometimes was called *Pileum*, sometime by the figure *synecdoche Apex* (whereas *Apex* doth properly signifie onlie the toppe of the bonnet) none might weare *Albo-galerum*, *id est*, a white mitre, but only *Iupiters* Priests, and that was to be made of a white sheepe-skin, after the sheepe had beene sacrificed. Whatsoeuer malefactor could escape vnto this Priest, he should not be punished that day. None was eligible into this office, but he that was married: neither was it lawfull for him to marry twice, but if his wife died, *Flaminio abibat*, *id est*, hee resigned his sacerdotall office. To him was permitted a rich robe of state, and a currule-chaire: none might fetch fire out of his house; vnlesse it were to perfourme some sacrifice therewith. [r] None might barbe or poll him, but a free-man, and that with brasen scissers. Many other ceremonies there were which concerned this *Flamen*, as likewise time added many other *Flamines*, namely [f] euery God one, yea sometime those threescore parish priests, which formerly were called *Curiones*, were called *Flamines Curiales*; and diuers Emperours after their death had also their *Flamines*. [t] Moreouer wee must note that those priests wiues were called *Flaminicæ*; Their ministers (for they were wont, when they went to sacrifice to take a boy or a maide with them) *Flaminij*, or *Flaminiæ*: And the Chiefe-flamens dwelling house waas called *ades Flaminea*, or *Flaminia*. But as it seemeth probable *Numa Pompilius*, and so the other kings succeeding him did still reserue their right and authority in holy matters so farre, that they would instruct other inferior priests, yea and specially perfourme some speciall sacrifices themselues.

q Alex Gen. dier. l. 6. c. 12.

r Servius Æn. lib. 1.

f Feneſt de sacred. cap. 5.

t Alex. Gen. dier. l. 6. c. 12.

themselues: whereupon after that the kings authority was abrogated amongst them, then that these sacrifices might be continued they chose a certaine Priest, which they preferred before the *Flamen Dialis*, but iudged him inferior to the *Pontifex maximus*, or Arch.Pontifie, and him they called, *Rex sacrificulus*, and *Rex sacrorum*, the King priest. To him once euery yeare the vestall Nunns repaired, and vsed this forme of words, [n]*Vigilasne Rex? Vigila.* King art thou awake? awake. For vnto him it did belong to bid holy-daies, and to prouide all things necessarie for publike sacrifices. He was to instruct those that sought vnto him, the causes of the holy-daies, and to tell them what was lawfull and vnlawfull euery moneth, & vpon the fifth of the Ides of Ianuarie he sacrificed a Romane to *Ianus*. He was likewise wont to offer vp a sacrifice in the *comitium* or great hall of iustice, which being finished he ranne as fast as he could out of the market-place without delay. His wife was called *Regina sacrorum*, the Queene-priestesse, and was wont vpon the Kalends of euery month to sacrifice a porker or a lambe in her place in the honour of *Iuno*.

n Serv. in Æn. 10.

Cap. 16.

De marte, sive Mauorte, & Salijs Palatinis Marti dicatis.

Mars otherwise called *Mavors* by the figure *Epenthesis*, as wee say *Induperator* for *Imperator*, was reputed the God of warre, and so *Metonymicῶς* is vsed for warre as *vario Marte pugnatum est*, the battell was doubtfull; *proprio Marte*, by ones owne strength, and labour. He was the sonne of *Iuno* onely without company of her husband: for when *Iuno* was greatly displeased with her selfe, that *Iupiter* by striking her head without company of a woman did bring forth the goddesse *Minerua*, shee by the counsell

counſell of the goddeſſe *Flora* touched a certaine flowre in the field of *Olenius*, by vertue whereof ſhe immediatly conceaued the God *Mars*. This God by reaſon of his dominiõ in warre, the Romans painted fiery, ſometimes in his chariot ſometimes on horſe-back: with a iauelin in one hand, and a ſcourge in the other. In old coines there was ſometimes the picture of a cocke ioined with him, to ſhew the vigilancy, & carefulneſſe that ſouldiers are to vſe. He was called [x] *Gradivus à gradiendo*, from marching in battell againſt his enmies. He had a Temple without the citie, whence he was called *Extramuraneus*. [y] Neere vnto this temple without the gate *Capena* did lie a ſtone of great note, which vpon great drouths the people would bring into the city, and preſently raine would followe, wherevpon it was called the Raine ſtone, *Lapis manalis à manando*. *Numa Pompilius* in the honour of *Mars* ſurnamed *Gradivus* ordained 12 dancing Prieſts called *Salij* [z] *á ſaliendo* from dancing, which number afterward we finde to haue beene doubled by *Tullus Hoſtilius* in the warre againſt *Fidena* a towne of the *Sabines*. The former 12 being called *Salij Palatini*, from the Palatine mount, where they did beginne their mauriske; the others *Collini* from the hill where their chappell ſtood; [a] and ſometimes *Quirinales*, and ſometimes *Agonales*: ſo that the whole college contained 24 Prieſts. [b] The occaſion of their firſt inſtitution was this: vpon a certaine time in the raign of *Numa*, the plague or ſome other contagious ſickneſſe was very hot among the Romans, inſomuch that no ſacrifice, or holy offering could remoue it: at that time a certaine braſen target, or ſcutchion called in Latine *anea pelta*, or *ancile*, bigge at both ends, but cut like an halfe moone on each ſide fell from heauen into *Numa* his hands, with a certaine voice promiſing all health vnto Rome ſo long as that braſen target could be kept ſafe. Wherevpon *Mamurius* a cunning workman by the appointment of *Numa* made eleuen other *ancilia* ſo like the firſt, that neither could be knowne from the other

[x] Roſin. ãnt. lib. 2. c. 10.

[y] Roſin. ibid.

[z] Plutarch in Numa.

[a] Dion. Halicarn. lib. 2.

[b] Plutarch. in Numa.

ther: (to the intent that if any should bee so wicked minded as to steale it, he might faile of his purpose by mistaking one for another.) These twelue Priests had the custody and keeping of them committed to their charge, & in the month of *March* every yeare they apparelled themselues with a party coloured coat, called *tunica versicolor*, girt close to their body, with a belt, or sword-girdle, and a brest-plate of harnesse called *æneum tegmen* vpon that, and a robe of estate called *trabea* clasped about them vpmost of all. Vpon their heads they did weare *apices*, *id est*, caps [c] much like vnto the *Persian* bonnets called in greeke *μιτρα σίαι*, or *τίαραι*. They did somewhat resemble our head-peeces in warre made close vnto the head, with a crest of cloath vpon the top, whence some haue called them *galeas*. They being thus apparelled daunced about the *Forum*, or market place, and the Capitoll with short swords by their sides, a iauelin in their right hand, and their *ancile* in the other; vsing certaine songs either of the Gods, and those they called *Ianualij*, *Iunonij*, and *Minervij*; or of men, and those they called *axamenta*, because in those songs they did *axare*, *id est*, nominate and call vpon the names of some well-deseruing men: as *Mamurius* which made those eleauen scutchions, was often called vpon in those songs. Vpon these their festivall daies they had excesse of cheere, whence [d] *Horace* hath vsed *saliares dapes*, to signifie dainty fare.

[c] Dion. Halicar. lib. 2.

[d] Horat. lib. 1. Ode 37.

Cap. II.

De Fœcialibus, & Patre patrato,

These *Fœciales* were officers at armes, or Heralds, to denounce warre, or proclaime peace, appointed therevnto at first [e] by *Numa Pompilius*. [f] The chiefe part of their office was to dissuade the *Romans* from molesting any confederate nation with vniust warre: and if any confederate nation

[e] Pomp. Læt. de sacerd.

[f] Dion. Halicar. lib. 2.

nation did offer iniurie vnto the *Romane* people, then did these *Fœciales* goe as Embassadours vnto them, perswading and exhorting them to yeeld the *Romans* their right: but if they continued thirtie daies obstinate refusing to yeeld vnto that, which should be iust and right, then did they presently denounce warre against them, casting forth a dart in token thereof: which denunciation was [g] called *clarigatio à clara voce, qua vtebatur Fœcialis.* Others are of opinion that whē-soeuer warre was denounced, this Herald at armes should [h] turne loose a Ramme vnto their enimies borders; signifying thereby that their fields should shortly become pasture for the *Romanes*: from which custome wee say of one that challengeth another into the field, *Arietem emisit.* Againe if the *Imperator*, or Lord-Generall had done ought against his oath, these *Fœciales* by their sacrifice did avert the wrath of the Gods from him. The chiefest of them was called *Pater-patratus*, a perfect father: for he onely could be *Pater-patratus*, which had both children of his owne, and his father also aliue. They were called *Fœciales à fœdere faciendo*, from making a league or peace betweene nations. This league which wee in Latine doe call *fœdus*, the *Romans* in olde time [i] did call *Fidus*, as *Ennius* and *Pighius* witnesse: whence these *Fœciales* were tearmed also *Fidei Flamines.*

[g] Serv. Æn. lib. 10.

[h] Vid. Erasm. adag.

[i] Pighius Septim. lib. 1.

Cap. 12.

De Duumviris, Decemviris, & Quindecimviris sacris faciundis: item de Sibyllis.

THis priesthood had his first institution from *Tarquinius Superbus*, whose office was as well to expound, as to keepe the oracles of those ten Propheteesses so famous throughout the world, called *Sibyllæ.* Concerning whom [k] *Munster* hath these words; In times past there came

[k] Munster. in sua Cosmog. lib. 2.

a strange woman to *Tarquinius* the king offering nine books full of the *Sibylline* oracles to be sold: But *Tarquinius* thinking the books too deere, refused to buy them. The woman departing burned three of these books, and came the second time vnto *Tarquinius*, demanding as much for those sixe books, as formerly she had done for the nine. *Tarquinius* then began to deride her, whereat the woman departed, and burned three more, returning againe vnto *Tarquinius*, & asking as much for the three left, as she asked at first for all 9. Then began *Tarquinius* more seriously to bethinke himselfe thereof, and sent for his *Augures* asking counsell and advice of them. And they vnderstood by certaine signes obserued, that the king had refused some speciall goodnesse sent from the Gods: and for the bookes that remained they aduised that the woman should haue what shee asked: As soone as the woman had deliuered her books she presently vanished, and was neuer seene againe, only warning them to keep the bookes as safe as possibly they could. For the safe keeping of these, *Tarquinius* chose two of the noble men, or *patricij*, calling them *Duumviri*, appointing them as well by study to expound, as with care to keepe those oracles. In processe of time the people obtained, that tenne should be appointed to this office,[l] fiue of them being chosen out of the commons and fiue out of the nobles: and then were they called the *Decem-viri*. Afterward by *L. Sylla*, as it is thought, fiue more were added, so that they were then called the *Quindecim-viri*: nay the number was encreased by *Sylla* vnto forty, [m] as *Servius* thinketh, but still called by the name of *Quindecim-viri*. Of these women that had the spirit of prophecie tenne were very famous: the first was called *Persica*, the second *Libyca*, the third *Delphica*, the fourth *Cumæa*, the fifth *Erythræa*, the sixt *Samia*, the seauenth *Cumana*, the eighth *Hellespontia*, the ninth *Phrygia*, the tenth *Tiburtina*. They all propheciedof the incarnation of *Christ*. The place where these bookes were kept was within the Capitoll vnder ground

[l] Feneste. de sacerd. c. 13.

[m] Serv. Æn. lib. 6.

ground in a chest of stone, where they remained safe vntill the burning of the Capitoll, at which time they also were burned. Notwithstanding many of the prophecies haue beene knowne, partly by tradition, and partly being taken out of other copies in other countries. One of the prophecies concerning our Saviour Christ was vttered by *Sibylla Delphica* in manner as followeth: [n] *Nascetur Propheta absq; matris coitu ex vtero eius*, that is, There shall bee a Prophet borne without any copulation of the mother, even out of her wombe. It was spoken at *Delphos*. All their prophecies were of that certaintie, that when we would averre any thing to be vndoubtedly true, we vse to say it is *Sibyllæ folium*, as true as *Sibillaes* oracles. The *Cumæa Sibylla* did write her oracles at the mouth, or entrance of her caue in leaues of trees, which the fiercenesse of the winde did oftentimes so scatter, that they could hardly be brought in order againe: insomuch that when we would shew the great difficultie of bringing things in order, we may vse [o] *Politian* his wordes, *Laboriosius est, quàm Sibyllæ folia colligere*, it is easier to gather together *Sibyllaes* leaues. This name *Sibylla* is not a proper name, but an appellatiue common to all women endowed with the spirit of prophecie, taking their denomination from [p] Θεὸς, *id est*, God, and βυλὴ, *id est*, councell, because they did open and declare the counsell and determination of God vnto the people. It appertained also vnto these *Quindecimviri* aboue-mentioned to see, that sacrifice and diuine service that supplications, and processions, expiations, and all ceremoniall rites were duely performed.

n Munster. in sua Cosmog. lib. 2.

credite me vebis folium recitare Sibyllæ.

o Epist. lib. 3. epist. 1.

p Serv. Æneid lib. 6. *θεὸς enim Deos, non θεὸς & consilium non βυλὴν sed βουλὴν appellabant Æolicogenere sermonis: Lact. de falsa religione, lib. 1 cap. 2.*

Cap. 13.

De Bonâ deâ, & sacris eius.

THis Goddesse, which is so famous by the name of *Bona dea*, is the globe of the earth, which is therefore tearmed *Bona dea*, the good goddesse, because we reap so many good things from the earth. Shee is called also *Ops* the helping goddesse of *ope*, from helpe, because by her helpe we liue. She is called *Fatua*, and *Fauna*, *id est*, the goddesse of speech, because young children doe neuer speak vntill they are able to goe, and so haue touched the earth. The *Grecians* called her γυναικεία θεὸς, the female goddesse, because that no male might bee admitted to her sacrifices; nay the very pictures of men were at that time to bee couered. The inner roome, where her sacrifices were, was called τὸ γυναικεῖον, the place for womens assemblies. [q] Those that were chiefe in these sacrifices were the Vestall Nunnes. This good goddesse was supposed to be the wife of *Faunus*, and vpon a time to haue beene taken drunke with wine by him, for which fault *Faunus* is said to haue beaten her to death with rods of mirtle tree. But afterward being sorry for that he had done, in amends he made her a goddesse: and as it were ever after detesting the mirtle tree, he allowing all other hearbs and flowers to be vsed in these sacrifices, forbad the mirtle tree. Some say she was so chast, that she never was seene by any man but her husband, and in respect of her chastitie the mirtle-tree is forbid, because it was consecrated to *Venus*. But whereas in this sacrifice they vsed wine, they called it not by the name of wine, but milke or hony: [r] whence they called the vessell wherein the wine was put, *amphoram mellariam, id est*, the hony vessell. This sacrifice became very famous by reason of *Clodius*, who being in loue with *Pompeia*, *Iulius Cæsars* wife, came vnto these sacrifices in womãs apparell

q Cic. orat. de Aruſp. reſponſis.

r Alex. Gen. dier. l. 6. c 8.

apparell,& was found out by *Aurelia Iulius Cæsars* mother. This *Clodius* became so infamous for this,and other his adulterous prancks, that he occasioned a common proverb amongst the *Romans*, *Clodius accusat mœchos*, answerable to which our English saying is,One theefe accuseth another.

CAP. 14.

De Cybelle,& sacerdotibus eius.

THis goddesse *Cybele*, or rather *Cybelle* was in her infancy exposed vnto wild beasts vpon the hill *Cybellus*, where she being nourished by the wilde beasts afterward became a woman of admirable beauty,and being found by a sheepheards wife was brought vp by her as her owne child,and called *Cybelle* from the hill *Cybellus*. She excelled in all naturall gifts,and was the first that vsed a taber and a pipe,and cymbals among the Greekes. Moreouer shee tenderly loued children,and therefore was called *magna mater*: she was also called *mater Deorum*, the mother of the Gods:

Ipsa deum fertur genetrix Berecynthia. Virg.

She was called *Rhea à ῥέω*, to flow, because she doth flowe & abound with all kinde of goodnesse. She was also named *Pessinuntia* from the citie *Pessinus* a Mart-towne in *Phrygia*, where she had a temple. Moreouer she was called *Berecynthia* from the hill *Berecynthus* in *Phrygia*, where shee was worshipped. Her Priests were called *Galli*, and their chiefe gouernour *Archigallus*: they tooke their name from a certaine riuer in *Phrygia* called *Gallus*: of which whosoeuer dranke,he became so mad,that he would presently geld him selfe:(as in truth all her priests were enioyned to geld themselues with a fish shell.) The originall of which custome is rendred thus: *Cybelle* loued a young man of *Phrygia* called *Atys*: and him she appointed chiefe ouerseer for her sacrifice

(Pomp. Lætus de sacerd

fice vpon condition that he would keepe himselfe chast perpetually: But not long after deflowred a Nimph, for which fact *Cybelle* bereft him of wits and vnderstanding, so that he in his madnesse did geld himselfe, & would haue killed himselfe also, [t] had not the Gods in their commiseration towards him turned him into a pine-tree. In remembrance of him, euer after her Priests were gelded. Every yeare the *Praetors* did sacrifice vnto this Goddesse. But the performance of the holy and religious rites at that time did belong vnto a *Phrygian* man, and *Phrygian* woman chosen for that purpose: which according to the manner of their country being apparelled with a party coloured garment called in Latine *Syntheſis*, or *amictus variegatus*, and carrying the picture of their Goddesse about with them in the streets, they stroke their breasts with their hands, keeping tune with the tabers, pipes, and cymbals, which other people following plaied vpon: The Priests were also called *Corybantes* from one *Corybantus*, which was one of her first attendants. And hereupon we call the cymbals *æra corybantia*. In this manner dancing about the streets they begged mony of the people whom they met: and hence were they named *Cybelle* her collectors, or her *circulatores, id est*, iuglers. Some called thē μητραγυρ͂ας from μήτης which in this place signifieth *Cybelle*, called the great mother, and ἀγύρτης a begger or gatherer of almes. [u] Others haue called them *Mitriaci*: But by what name soeuer they were called the place was so infamous by reason of their drunkennesse, and vncivilitie vsed at these times, that when they would point out a notorious naughty fellow, they would call him *circulatorem Cybelleium*. *Cybelle* her iuggler. Neither was it lawfull for any free borne to vndertake that office,

[t] *Cybeleius Attis Exuit hac hominem truncoq; induruit illo.* Ov. Met.

[u] Rosin. ant. lib. 3. cap. 27.

CAP.

Cap. 15.

De Collegio Pontificum, & Pontifice Maximo.

THis word *Pontifex* is commonly translated a Bishop or Prelate, being called *Pontifices* in Latine, as also Pontifies in English frō one part of their office, which was to haue the ouersight of a great woodden bridge called in Latine *Pons sublicius*, being so great, that Carts and Waines might passe ouer it; hauing no arches to vphold it, but only great piles, and posts of wood: [x] and that which is most remarkable in it, was that it was ioyned together onely with woodden pinnes, without any iron at all. Others are of opinion that they were tearmed *Pontifices quasi potifices* from *potis* and *facio*, of which opinion *Lucane* seemeth to bee, according to that, *Pontifices sacri quibus est commissa potestas.* Concerning the [y] number of them onely foure were appoynted by *Numa*, all which then were to be chosen out of the *Patricij*: afterward foure more were added out of the Commons. These were called *Pontifices maiores*, or chiefe Pontifies, to distinguish them from seauen other. which afterward *Sylla* added, and [z] called them *Pontifices minores*, inferiour Pontifies. The whole company of them was called the colledge of Pontifies. This college is priuiledged from all allegeance, being not bound to render an account of their doeings either to the Senate, or Commonaltie. They were to determine all questions concerning religion, as well betweene their Priests, as betweene priuate men. They had authority to punish any inferiour Priest, if he either detracted or added vnto those religious rites, which were prescribed him. They had their great Pontifie, whom they called *Pontificem maximum.* These Pontifies were wont to exceed in their diet, insomuch that when the Romans would shew the greatnes of a feast, they would say it was *Pontificia cœna, id est*, according to

[x] Plutarch. in Numa.

[y] Feneſt. de ſacerd.

[z] Roſin. antiq. lib. 3. c. 22.

our englisſh phraſe a feaſt for an Abbot. *Cœna adycialis* is taken for the ſame. [a] *Lipſius* in the expoſition of the latter phraiſe taxeth the Printers negligence, and is of opinion that it ſhould rather be printed, *Cœna aditialis*, vnderſtanding thereby a ſolemne feaſt made by Magiſtrates in *aditu honoris*, at their entrance into their office, and at their day of inauguration.

a Lib. 4. de magnit. Rom. cap. 9.

Cap. 16.

De Epulonibus.

THe Pontifies in old time appointed three men, whom they [a] called *Trimviros epulonum* (from *Epulum* a feaſt) to haue the ouer ſirght of the feaſts made at ſacrifices; afterward by reaſon of two twice added, they were called firſt *Quinqueviri*, and at length *Septemviri Epulonum*.

a Lazius de Repub. Rom. lib. 3. cap.

Cap. 17.

De Titijs.

ANother ſort of religious men ther were which liued in the ſubvrbs of the citie an practiſed ſouthſaying; They were called *Titij* [b] from the name of the birds which they obſerued, which in latine were called *Titia*.

b Pancirollus lib. rerum deperditarum cap de mole Hadriani.

Cap. 18.

De Virginibus Veſtalibus.

NEere vnto *Caſtors* temple ſtood the religious houſe, or Nunnerie dedicated to the goddeſſe *Veſta*: where at the firſt were fowre, after 6. Virgins, or votaries elected

elected, was office was chiefly to keepe the sacred fire: the extinction whereof proued ominous, and did portende some euill euent shortly to happen: And therefore for their negligence herein, as for all other small faults, they being had into a darke corner, stripped naked, and a curtaine drawne halfe way ouer them, the chiefe Pontifie scourged them: neither was it lawfull to kindle the fire once put out, with any other fire, but from the sun beames; for which purpose they had certaine instruments named [c] σκαφεῖα which were formed in the manner of a *pyramis*, but hollow, so that the beames being collected within the circumference, and meeting in the *vertex* did easily kindle any cumbustible matter put vnto it; but chiefly if the matter was of blacke colour: becausse, as philosophie teacheth, a darke colour doth congregate, or collect the beames, whereas witnesse doth disperse them. A second part of their office was to worke reconciliation betweene parties offended, as appeareth by [d] *Suetonius*: where we may read that by their intercessiou *Sylla* was reconciled to *Cæsar*. They were chosen into this place betweene the sixth, and the eleauenth yeare of their age: and they were to remaine in this Nunnerie 30. yeares space, 10. yeares to learn their ceremonies and misteries, 10. yeares to exercise them, and 10 yeares to instruct others: within which space if they had suffered their bodies to be defiled, they were to vndergoe that fearefull punishment * afore mentioned. But these 30. yeares being expired, marriage was lawfull for them, so that they laid aside their scepters, their fillets: and other their sacerdotall ornaments. Notwithstanding those which did marrie in the ende died fearefull deathes: wherevpon they chose rather to obstaine commonly. The *Romanes* had them in great honour so that they neuer walked abroad but with an yron scepter in their hands, and whatsoeuer malefactor met them (if the Nun would take her oath it was by chance) he escaped punishment. They wer named *Vestals* from their goddesse *Vesta*, which word (as [e] *Munster* writeth) is deriued

[c] Plutarch in Numa.

[d] Suet. in Iulio.

*Vid. sup. p. 11.

[e] Munst. in sua cosmog. l. 2. c. 9

ued from the Heabrew *radix* signifying fire. The eldest was callrd *Maxima Vestalis virgo, id est,* the Lady prioresse, or chiefe gouernesse.

Cap. 19.

De veterum sacrificijs & ritu sacrificandi.

WHatsoeuer was burnt or offered vp vnto the Gods vpon an altar it had the name of a sacrifice: and sometimes it was called *Victima, quòd vincta ad aras stabat,* becausse the beast to be sacrificed stood bound vnto the altar. Sometimes *Hostia,* from an absolute verbe *Hostio,* which is to strike: becausse certaine vnder officers called in latine *Popæ* (standing by the altars, all their vpper part naked, and a lawrell garland vpon their head) did *Hostiare victimam, id est,* strike downe and kill the sacrifice. Others are of opinion, that this name *Hostia* is taken from *hostis,* an enimie: according to that of *Ovid. Hostibus à domitis hostia nomen habet:* becausse either before warre to procure the Gods fauour, or after warre in token of thankfullnesse, they did *hostiam ferire, id est,* offer vp the sacrifice. The second difference of sacrifices haue beene occasioned in respect of the time, and so they haue beene called *Præcidaneæ,* or *succidaneæ, quasi præcedaneæ & succedaneæ.* Those sacrifices which were offered vp the day before any solemne sacrifice, were called *Præcidaneæ hostiæ,* fore sacrifices, as wee english *præcursorem,* a forerunner: which fore-sacrifices if by any token they found vnlucky, then would they offer vp a second sacrifice which they tearmed *hostiam succidaneam:* And becausse these second sacrifices were to be offered only insteed of the other, when they were vnluckie or faulty; hence hath *Plautus* vsed this speech *Meum tergum stultitiæ tuæ subdes succidaneum?* Must I be whipped for thy fault? The manner of sacrificing was as followeth. Some certaine daies before any sacrifice was to

be

be performed, the prieſt was wont to waſh his whole body, [f] especially his hands and feet, which if he had not waſhed, the ſacrifice was accounted polluted: and alluding vnto this cuſtome we ſay a man doth *Accedere ad rem illotis manibus*, or *illotis pedibus*, as often as he enterpriſed any buſineſſe without due reuerence or preparation therevnto.

Μηδὲ πυθ' ἐξ ἠῶ͂ς δὲ λελβέσθαι ἄδωρα δέπαστα
Χερσὶν ἀνιπτόποσιν. *Heſiod* ἔργ. καὶ ἡμερ.

Moreouer the prieſts was to abſtaine from his marriage bed, as likewiſe from diuers kinds of meats, and at the time of his going to ſacrifices, either himſelfe, or ſome inferior Sexton going before him, with a rod or wand in his hand (called *commentaclum*) [g] vſed this forme of words vnto the people: *Hoc age*, attend this you are about: which cuſtome ſeemeth to haue had its originall from the *Grecians*. For before the time of ſacrifice, the Grecian Prieſt vſed almoſt the like ſpeech vnto his people. As τίς τῇ δὲ, *id eſt* who is here? the people anſwered πολλοὶ, καὶ ἀγαθοὶ, *id eſt*, many men, and good. After this preparation, then did the Prieſt laying his hand vpon the altar, rehearſe certaine praiers [h] vnto the God *Ianus* and the Goddeſſe *Veſta*: becauſe the *Romans* were perſwaded, that without their interceſſion they might not haue acceſſe vnto the other Gods. His prayers being ended then did hee lay [i] vpon the beaſts head a little corne together with a cake made of meale and ſalt, called in Latine *Mola*, [k] *Mela erat far toſtum, ſale aſperſum*. From this ceremony the act of ſacrificing hath beene tearmed *Immolatio*. After this the ſoothſayer dranke wine out of an earthen or woodden chalice called in Latine *Simpulum* or *Simpunium*: It was in faſhion much like our eywers, whence we powre water into the baſon. This calice afterward was caried about to all the people that they alſo might *libare*, *id eſt*, lightly taſt thereof [l] which rite hath beene called *Libatio*. Now euery one hauing taſted thereof, the reſt of the wine with frankincence mixt in it was to be powred vpon the beaſts head, [m] betweene the hornes

[f] Vid. Eraſm. Adag.

[g] Plutarch. numa.

[h] Serv. Ænei. lib. 1.

[i] Pancirol. li. rerum deperdit. c. de ſale Ammoniaco.

[k] Textor in ſua officina. *Spargeſalſa colla taurorum molâ*, Sen. Oedip. Act. 2. ſc. 2.

[l] Pancirol. lib. rerum deperdid. cap. de Ammoniaco ſale.

[m] *Medijnter cornua fundit*. Virg. Æneid.

one crying out with a lowd voice, *Macta est hostia, id est, Magis aucta*, more encreased and made more pleasing vnto the Gods; as *Virgill* saith *Macte nouâ virtute puer, id est*, O good child which encreasest in vertue. And hence euen from this tearme, wee may coniect, that the word *Macto*, which signifieth to kill, and sometimes to sacrifice, hath had its originall, because they did immediatly after that voice, *mactare hostiam*, that is, slay the sacrifice, and that was done in this manner. First the Priest did pluck off some of the beasts haires betweene the hornes, and cast them into the fire, calling them his *prima libamina, id est*, his first offrings: Then did he turning his face towards the East, draw a long crooked knife vpon the beasts back, commanding his vnder officers, which I called *Popæ* (others *Cultrarij*, from their knife, *Vistimarij*, from the hoast; and *Agones*, because they standing ready to giue the stroke, often vsed this word *Agon*? for *Agone, id est*, must I to my work?) to kill the beast. The other people standing by, some did with vessels saue the bloud, others did flea or skinne the beast; others washed it. Anon some soothsayer or Priest did obserue the intrals, turning and winding thē with a knife which was called *Secespita, à secando*: for he might not touch thē with his hand, they conceyting that if the sacrifice had proued polluted, his hand would then haue perished. Now after the soothsayer or Priest had sufficiently turned the intrals, & found no ill token therein, thē did those *Popæ*, or Church-butchers, cut off from euery bowell some portion, which after they had rolled in barly meale, they sent it in baskets to the Priests, and the Priest taking it vp into a broad charger or platter called *discus*, or *lanx*, laid it vpon the Altar and burnt it, and this was properly termed *litare*, or *Reddere, id est*, to satisfie by sacrifice, or to pay the sacrifice, which was owen vnto the Gods. After that the portion laid out for the Gods, had beene burnt, then did all the people repaire vnto a common feast; where, as they were eating, they sung hymnes, and songs in the praise of their Gods, and playing

n Rosin antiq. lib. 3. c. 33.

o Ioac. Camerar. pro Flacc.

ing on Cymballs, they danced about the altars; intimating thereby, that there was no part of their body, but should be imployed in the seruice of their Gods. Now vntill all their ceremonies and mysteries were finished, it was not lawfull for any to tast of this feast, in somuch that we since haue vsed to checke a glutton or greedy-gut, which cannot abstaine from his meate till grace be said, in this manner, *Sacra haud immolata deuorat.*

CAP. 20.

De nuptijs, & nuptiarum renunciatione.

SEeing that marriages and burialls haue such dependence vpon the Priests, it will not bee amisse to conclude this section with two chapters, briefly opening the ceremonies of both. Before wee come vnto the solemne ceremonies, vsed by the Romanes in their mariages, we will first shew the manner of their contracts, which were called by the *Romanes*,[a] *Sponsalia à spondendo*, because in their contracts, each did promise other to liue as man and wife. Now the manner of contracting was commonly thus: They did for the greater security, write downe the forme of the contract vpon tables of record, as appeareth by *Iuuenal. Sat. 6.*

Si tibi legitimis pactam, iunctamq; tabellis
Non es amaturus----

[a] Salmuth. in pancirol. lib. rerum deperdit, c. de. nuptijs.

These tables were also sealed with the signets of certain witnesses there present, who were tearmed from their act of sealing, *Signatores*. Moreouer before they would begin the ceremonies of their contract, the man procured a soothsayer, & the woman another, with whom first they would consult. Whence *Iuuenall Sat. 10.*

----Veniet cum signatoribus auspex.

The token or signe which these soothsayers in time of obseruing accounted most fortunate, was a crow: [b] *Ea enim caruicum*

[b] Alex. Gen. lib. 2.

cum societas est, vt ex duabus socijs alterâ extincta, vidua altera perpetuò maneat. The man also gaue in token of good will aring vnto the woman, which shee was to weare vpon the next finger vnto the little of the left hand, [c] becausse vnto that finger alone proceedeth a certaine artery from the heart. The word *Nuptiæ*, which signifieth marriage had its deriuation *à Nubo*, [d] which verbe in olde time signified to couer: the custome being that the woman should be brought vnto her husband, with a [e] yellow vayle (called *Flammeum*) cast ouer her face. Againe, because of the good successe that *Romulus*, and his followers, had in the violent taking away of the *Sabine* women [f] they continued a custome, that the man should come and take away his wife by a seeming violence, from the lap or bosome of her mother, or her next kinne. Shee being thus taken a way, her husband did diseuer & diuide the haire of her head with the top of a speare, wherewith some Fencer formerly had beene killed. This speare was called by them *Hasta cælibaris*, [g] & the ceremonie did betoken, that nothing should disioyne them, but such a speare, or such like violence The next day after the marriage, a solemne feast was held, where all the bride-men and bride-womens friends met to make merry, this feast they called *Repotia*. We must note, that [h] three manner of waies, a woman became a mans lawfull wife: *vsu, confarreatione, coemptione.* A woman became a mans lawfull wife *Vsu.1.* By prescription or long possession, if that shee were wedded with the consent of her ouerseers, and so did liue with the man, as with her lawfull husband a whole years space, *nullo interrupto vsu, id est,* [i] shee being not absent from him three nights in the whole yeare. And some haue thought that the counterfeited violence, in taking a way the maide from her friends, was vsed only in this kinde of marriage. A woman became a mans wife *confarreatione, id est*, by certaine solemnities vsed before a Pontifie or chiefe-bishop, when the woman was giuen vnto the man, vsing a set forme of words, ten witnesses being present, & a solemne sacrifice

[c] Aul. Gel.

[d] Rosin. antiq. lib. 5. c. 37.

[e] Plin. lib. 21. cap. 8.

[f] Sig. de iur. Rom. l. 1. c. 9.

[g] Salmuth. in Panciroll. l. rerum deper. ditarum. cap. de nuptijs.

[h] Boeth. Topicor. 2 Vid. Cel. Rhodig. lib. 28. cap. 17.

[i] Sig. de iure Rhom. l. 1. c. 9.

sacrifice being offred, at which the couple married should eat of the same barly cake, which formerly had beene vsed in the sacrifice. Which sacrifice was tearmed *à farre, confarreatio*, & the marriage it selfe *Farracia*,[k] & sometimes *sacra* simply; the dissolution of this kind of marriage *Diffarreatio*. A woman became a mans wife *coemptione, id est*, by buying and selling, when the woman did vnder a feined forme of sale, buy her husband, by giuing him a peece of coine.[l] *Veteri Romanorum lege, nubentes mulieres tres ad virum asses ferre solebant: atq; vnum quidem quem in manu tenebant, tanquam emendi causa marito dare.* [m] To these three some teach, that a fourth sort of marriage was in vse among the *Romans*; namely, when a woman became a mans wife *sortitione*, by a kinde of lottery: & of this they say *Sueton*: speaketh. [n] In that kind of marriage, which was *per coemptionem*, the man was not named by his proper name, nor the woman by hers, but the man was named *Caius*, and the woman *Caia*, in the memory of the chast and happy marriage of *Caia Cæcilia*, wife to *Tarquinius Priscus*: from whence sprang a custome among them that the new married wife, when she was brought home vnto her husbands house, was to vse this proverbe. *Vbi tu Caius, ibi ego Caia*; by which words she signified, that shee was now owner of her husbands goods, as well as himselfe: and therefore *Erasmus* hath expounded that saying, by these words; *Vt tu dominus, ita ego domina*, [o] And shee that was thus married *Per coemptionem*, was properly called *Materfamilias*.[p] If any of these ceremonies were omitted, then was the marriage tearmed, *Nuptiæ innuptæ*, in which sense we call our enimies gifts, no gifts; Ἐνδεῶν ἀδώρων δῶρα. These ceremonies being ended, towards night the woman was brought home to her husbands house, with fiue torches; signifying thereby, the need which married persons haue of fiue Gods, or Goddesses, *id est, Iupiter, Iuno, Venus, Suadela*, & *Diana*, who oftentimes is called, *Lucina* (the reason of the name being rendred by *Ovid.*

[k] Cic. orat. pro Muræna.

[l] Sig. de iure Rom. l. 1. c. 9.

[m] Sueton. in Tiber. c. 35.

[n] Cic. orat. pro Murena. Item Fr. Si. lib.

[o] Cel. Rhodig. l. 28. cap. 17.

[p] Hieron. Ferarius in Philippic. orat.

...-Dedit hæc tibi nomina lucus,
Aut quia principium tu Dea Lucis habes.

There are of opinion, who thinke that the vse of these torches, was not only to giue light, but to represent the element of fire: for no marriages were thought happy, which were not contracted *Sacramento ignis & aquæ*: for which reason the custome likewise was, to besprinkle the new married woman with *water yea they did both in time of their contract touch water and fire provided for that purpose. The signification of this ceremonie, some thinke to be thus. The fire because it is an actiue element, to represent the man: the water because it is passiue, to represent the woman. Others say that in the community of these two elements, was intimated the community betweene man and wife, of all other their goods and possessions, which was more fully declared in that forequoted proverb, vsed by the wife. *Vbi tu Caius, ibi ego Caia.* The matter whereof these torches were made, was a certaine tree, from which a pitchie liquour did issue; it was called *Teda*, and thence haue the Poets figuratiuely, called both the torches and the wedding it selfe *Tedas.* When the woman had thus beene brought to the dore, then did she anoint the posts of the dore with oyle, from which ceremony the wife was called *vxor, quasi vnxor.* This ceremonie of annointing being ended, the brideman did lift her over the threshold, and so carried her in by a seeming force, because in modestie shee would not seeme to goe without violence into that place, where she should loose her maidenhead. At her carrying in all the company did cry out with a lowd voice, *Talassio, Talassio*: for which custome *Plutarch* alleageth many reasons; this being one. Among those who rauished the daughters of the *Sabines*, there were found some of the meaner and poorer sort carrying away one of the fairest women: which being knowne, certaine of the Citizens would haue taken her from them, but they began to cry out, that they carried her to *Talassius*, a man well beloved

*Pancirol. lib. rerum deperd. cap. de nuptijs

q Serv. Æn. l. 4

r Plutarch. vit. Pompeij.

ved among the *Romans*, at which naming of *Talassius*, they suffered her to be carried away, themselues accompanying her, and often crying *Talassio, Talassio.* From whence it hath beene continued a custome among the *Romans* euer at their marriages to sing *Talassio, Talassio:* as the Greekes did *Hymen, Hymenae.* From this custome of leading or bringing home of the new married bride, commeth that Comicall phrase *Ducere vxorem*, to marry a wife. Shee being thus brought home, receaued the keyes of her husbands house, whereby was intimated that the custody of all things in the house was then committed vnto her. [s] The marriage bed was called *Genialis lectus*, as we may suppose, *quasi Genitalis.* [t] Sometimes it was called *Lectus aduersus, quod hunc lectulum religiose seruari mos fuit, & in atrio collocari, ianuae ex aduersum, id est*, they placed this bed in their court, directly opposite to their gate, keeping it as some religious monument or pledge of matrimonie. The next day after the marriage, the bride-woman receaued gifts of her friends, which the lawyers tearmed *Nuptialia dona.* [u] But *Cicero* expoundeth these *Dona nuptialia*, to be certaine tokens, which the husband sent to his wife before the betroathing. If after the marriage any discontent had fallen out betweene the man & his wife, [*] then did they both repaire vnto a certaine Chappell, built in the honour of a certaine Goddesse, called *Dea viriplaca, à viris placandis*, whence after they had beene a while there, they returned friends. Wee haue thus seene the rites & ceremonies which the *Romans* vsed in their cõtracts & marriages; it would not be impertinent to annex the maner of their divorcements, which vpon iust causes were permitted. There [x] were two manner of divorcements, the one betweene parties only contracted; the second between parties married. The first was properly called *Repudium*, in which the partie suing for divorcement, vsed this forme of words, *Conditione tua non vtar.* The second was called *Divortium*, wherein the party suing for it, vsed these words. *Res*

[s] Alex. Gen. dier, l. 2. c. 5.
[t] Lipſ. Elect. lib. 1, cap. 17.
[u] Vid. Fr. Silv. pro Cluentio.
[*] Sig. de iure Rom. l. 1. c. 9.
[x] Rosin. antiq. lib. 5. c. 38.

tuas tibi habeto: vel res tuas tibi agito. Both these kinds were tearmed *Matrimonij renuntiationes*, a renouncing or refusall of marriage. Where we must note, that insteed of this verbe *renunciare*, diverse good authors doe vse this phrase *mittere* or *Remittere nuncium*: as *C. Cæsar Pompeiæ nuncium remisit*, *C. Cæsar* hath divorced *Pompeia*. And alluding herevnto, *y Cicero* saith *virtuti nunciũ remisit, id est.* He hath cast of al good nesse, he hath even divorced vertue. Secondly we must note, that this verb *Renuncio*, doth not only signifie to renounce, or to refuse, but many times in *Tully*, it signifieth to declare, or pronounce a magistrate elected, as *Renunciare consulem, Prætorem, &c.* The reason why in matrimoniall contracts, it signified to renounce, or refuse, was because in these divorces, they did oftentimes send to their wife *per nuncium*, by a messenger some bill or scroll of paper, containing the causes of the divorce. Moreouer we are to obserue, that in these divorces, the ceremonies were quite contrary to those in mariages; the iust causes of divorce being fore-signified to the censors, the marriage tables were broken, the dowry restored, the keyes of the house taken from the woman, and shee turned out of dores: all which ceremonies are at large treated of by *Thom. Dempster. lib. 5. Antiq. Rom. cap. 38.*

y Ep. fam. l. 5.

Cap. 21.

Quo apparatu, quibusq; ceremonijs apud veteres defuncta corpora igni tradebantur.

THe *Romanes* in ancient time when they perceaued a body dying, had such a custome, that the next of the kinne should receaue the last gaspe of breath from the sicke body into his mouth, as it were by the way of kissing him: (to shew thereby how loath and vnwilling they were to be depriued of their friends) and likewise should close the eies of the party being deceased. Whence *Anna* said vnto her

her ſiſter *Dido* now dying

---ſ *Extremus ſi quis ſuper halitus errat* ſ Virg. Æn. 4.
Ore legam---

And *Penelope* wiſhing that her ſonne *Telemachus* might out liue her ſelfe and his father, writeth to her husband in this manner. *Ille meos oculos comprimat, ille tuos.*

After the body had thus deceaſed, they kept it ſeauen daies vnburied, waſhing the corps euery day with hot water, and ſometimes annointing it with oyle, hoping that if the body were only in a ſlumber and not qnite dead, it might by theſe hot cauſes be reviued.

Per calidos latices & ahena vndantia flammis
Expediunt, corpuſq; lavant frigentis & vngunt.

In theſe ſeuen daies ſpace, all the dead mans friends met together now and then, making a great outcry or ſhout with their voices, hoping that if the dead body had beene onely in a ſwone or ſleepe, he might thereby be awaked. This action was tearmed *conclamatio*, whence when wee haue done the beſt we can in a matter, and cannot effect it, we ſay proverbially *conclamatum eſt*: for this third conclamation or generall outcrie (which was alway vpon the ſeauenth day after the deceaſe) was even the laſt refuge, at which if the body did not reviue, then was it carried to buriall being inveſted with ſuch a gowne as the parties place or office formerly had required. Thoſe who had the dreſſing, cheſting, or embaulming of the dead corps were called *Pollinctores:* After they had thus embaulmed the corps, they placed it in a bed faſt by the gate of the dead mans houſe, with his face & heels outward toward the ſtreet, according to that of *Perſ.*

---*Tandemq; beatulus alto*
Compoſitus lecto, craſſiſq; lutatus amomis
In portam rigidos calces extendit.---

herewith accordeth *Homer* ſpeaking of *Patroclus* his funeall.

Ὅς μοι ἐπὶ κλισίῃ ἀδαήμονι ὄξεϊ χαλκῷ,

Κεῖ παὶ ἀνὰ σκήνεσι τετραμμένον.--- *id est,*
Qui mihi in tabernaculo confossus acuto ære,
Iacet ad vestibulum conversus.

This ceremony was properly called *corporis collocatio*: and fast by this bed neere the gate also was erected an altar called in Latine [t] *Acerra*, vpon which his friends did every day offer incense vntill the buriall. The gate in the outside was garnished with cypresse branches, if the dead man were of any wealth or note: For the poorer sort, by reason of the scarcitie of the tree, could vse no such testimonie of their mourning. [u] *Et non plebeios luctus testata cupressus.*

In these seauen daies space certaine men were appointed to provide all things in readines for the funerall: Which things were commonly sold in the [x] Temple of *Libitina*, frō whence those providers were tearmed *Libitinarij*; though sometimes this word *Libitinarius*, doth signifie as much as *capularis* an old decrepit man, ready for the graue. Vpon the eighth day a certaine cryer in manner of a bell-man, went about the towne to call the people to the solemnization of the funeral, in this fotme of words: [y] *Exequias L. Titio, L. Filio quibus est commodum ire. Iam tempus est. Ollus ex ædibus effertur.* After the people had assembled themselues together, the bed being couered with purple or other rich couerings, the last conclamation being ended, a trumpeter went before all the company, certaine poore women called *præficæ* following after, and singing songs in the praise of the party deceased. Where we must note that none but the better sort had a trūpet sounded before them; others had only a pipe. [z] *Senatoribus & patricijs tuba; minoribus & plebeiis tibia canebant fiticines*; this word *Siticines* signifying either a trumpeter or piper, because they did both *ad sitos, id est, mortuos canere.* Againe, except it were one of the Senatours or chiefe citizens, he was not carried out vpon a bed, but in a coffin vpon a beere. Those that carried this bed were the next of the kin, so that it fell often among the Senators themselues to bear the corps,

t Alex. Gen. dier. l. 3. c. 7.

u Lucanus.

x Alex. Gen. dier. l. 5. c. 26.

y Rosin. ant. lib. 5.

z Alex. Gen. dier. lib. 3.

corps, and becauſe the poorer ſort were not able to vndergoe the charges of ſuch ſolemnities, therevpon were they buried commonly in the dusk of the euening; and hence *à veſpertino tempore*, thoſe that carried the corps were tearmed *veſpæ*, or *veſpillones*. In the buriall of a Senator or chiefe officer certaine waxen images of all his predeceſſours were carried before him vpon long poles or ſpeares, together with all the enſignes of honour which hee deſerued in his life time. Moreouer if any ſeruants had been manumized by him, they accompanied the mourners lamēting for their maſters death. After the corps following the dead mans children, the next of the kin, & other of his frieuds *atrati*, *id eſt*, in mourning apparell. From which act of following the corps, namely *à ſequendo*, theſe funerall rites haue beene tearmed *Exequiæ*, as *Donat* hath obſerued vpon that of *Terrence*. *Funus interim procedit, nos ſequimur*. Which rites becauſe they were performed as debts due vnto the partie deceaſed, hence were they alſo called *Iuſta*. *Eò dicuntur Iuſta, quòd iure mortuis facta tari debent à vivis, Polyd. de invent. lib. 6. cap. 9.* The corps being thus brought vnto their great Oratory called the *Roſtra*, the next of the kinne [a] *laudabat defunctum pro roſtris, id eſt*, made a funerall oration in the commendation principally of the partie deceaſed, but touching the worthy acts alſo of thoſe his predeceſſours, whoſe images were there preſent. The oration being ended, the corps was in old time carried home againe in manner as it was brought forth,

Sedibus hunc refer ante ſuis & conde ſepulchro.

But afterward by the law of the twelue tables it was prouided, that no man beſides the Emperour and Veſtall Nunnes ſhould be buried within the citie; though ſome vpon eſpeciall fauour haue obtained it. The manner of their buriall was not by interring the corps, as in former times it had beene, but burning them in a fire [b] the reaſon thereof being to preuent the cruelty of their enimies, who in a mercileſſe reuenge would at their conqueſts digge vp the buried bodies, making

[a] Suet. C. Iulius Cæſar. c. 6.

[b] Salmuth. in Pancir. lib. rerum deperd. de exequijs.

king even the dead also subiects of their implacable wrath.) This fire before the burning was properly called *Pyra*; in the time that it burned it was called *Rogus*, [c] *quòd tunc temporis Rogari solerent manes*; after the burning then was it called *Bustum quasi benè vstum*. This *pyra* was alwaies built in form of a tabernacle, as it is *aboue more at large to be seen: whither after the dead mã had bin brought, his friends were wont to cut off one of his fingers, which they would afterward bury, with a second solemnity. The charges at funerals growing by this means to be doubled, the law of the 12 tables prouided in these words *Homini mortuo ossa ne legito, &c.* that no mans finger should be cut off, except he died either in the warre, or in a strange country. Where wee must obserue, that *lego* in this place doth signifie as much as *adimo* or *aufero*, in which sense we call him *sacrilegum, qui legit, id est, qui adimit & aufert sacra*. After the dead body had beene laid vpon the *pyra*, then were his eies opened againe to shew him heauen if it were possible: [d] and withall an halfe-penny was put in his mouth, they superstitiously conceiting, that that halfepenny was *naulum Charontis*, the pay of *Charon*, the supposed ferryman of hell, who was to carry mens souls in a boat ouer the *Stygian* lake after their decease. About this *Pyra* were first many boughs of Cypresse tree to hinder the evill cent of the corps to be burned. The dead body being thus laid vpon the *Pyra*, the next of the kinne turning his face averse from the *Pyra*, did kindle the fire with a torch: after this commonly certaine fencers hired for this purhose did combate each with other till one of them was killed; they were tearmed *bustuarij* from *bustum*. The blood of those that were slaine, serued insteed of a sacrifice to the infernall Gods, which kinde of saerifice they tearmed *Inferiæ*, [e] *Inferiæ sunt sacra mortuorum, quæ inferis solvuntur*. Anon after the body had beene burned, his neareſt friends did gather vp the ashes and bones, which being washed with milke & wine were put into certaine pitchers called *vrnæ*: whence this word

c Serv. Æn. 5.

* Sup. pag. 30.

d Alex. Gen. dier. lib. 3.

e Servius.

word *vrna* is often vſed by Poets to ſignifie a graue or ſepulchre, as.

----*Vnâ requieſcit in vrnâ. Ouid. Met. lib. 4.*

[f] Though properly *ſepulchrum* was in old time a vault or arch-roofe, round about the wails whereof were placed certaine coffines called *loculi*, within which thoſe former *vrnæ* were laid vp and kept, namely two or three in each coffine. Now theſe funeralls ſometimes were commonly rowards night, inſomuch that they vſed torches; theſe torches they properly called [g] *funalia à funibus cero circundatis, vnde & funus dicitur.* [h] Others are of opinion that *funus* is ſo ſaid from the greeke word φόνος ſignifying death or ſlaughter. The bones of the burned body being thus gathered vp, then did the Prieſt beſprinkle the company with cleane water thriſe, and the eldeſt of the mourning women called *præficæ*, with a lowd voice pronounced this word, *Ilicet*, thereby diſmiſſing the company, (the word ſignifying as much as *Ire licet*;) Then preſently did the company depart taking their farewell of the dead body in this forme of words: *Vale, vale, vale: nos te ordine quo natura permiſerit ſequemur.* If any of theſe ceremonies had beene omitted [i] then was it tearmed *ſepultura in ſepulta*, in the ſame ſenſe as *nuptiæ* formerly were tearmed *innuptæ*. The old and aged men were inuited after the buriall to a feaſt, or funerall banquet called *ſilicernium* [k] *quaſi ſilicæ-nium, id eſt, cœna ſupra ſilicem poſita*, their cuſtome being to eate that feaſt vpon an altar of ſtone, and becauſe this feaſt was only eaten at funerals, and by the elder ſort, [l] hence figuratiuely this word *ſilicernium* doeth ſometimes ſignifie an old creeple ready for the graue. The poorer people inſteed of a feaſt, receiued a dole or diſtribution of raw fleſh: this dole was tearmed *Viſceratio*. Moreouer there was a potation or drinking of wine after the buriall called *Murrata* or *Murrhina potio*, which afterward the law of the 12. tables for the auoiding of expenſes did prohibit: as likewiſe for the moderating of griefe in the mourners it did prohibit the vſe

[f] Roſin. ant. l. 5.

[g] Seruius in Æneid. lib. 1.

[h] Hub. in Cic. ep. fam. lib. 4.

[i] Hier. Ferrarius in Cic. orat. Philip.

[k] Seruius in Æned. lib. 5.

[l] Anteſig. in Ter. Adelph. Act. 4.

of this word *Lessum*, [*Neve lessum funeris ergô habento*] for that word was often ingeminated in their mourning as a dolefull eiulation, or note of inward sorrow. This sorrowing or mourning was in some cases vtterly prohibited, in others limited; [m] Namely an infant dying before he was three yeares old, should not be mourned for at all; because he had scarcely yet entred into his life. Elder persons were to be mourned for so many days, as they were years old. Wiues were permitted to mourne for their husbands (Alexander addeth also children for their fathers) ten months, if they would: within which time, the widdow could not marry another husband without infamy and discredit. *Polid de inuent. lib. 6. cap. 9.* Here wee may with *Reuardus* obserue a distinction betweene *lugere* and *Elugere*. *Lugere* signifieth no more then to mourne some part of the time prescribed; *Elugere* to mourne the whole and full time.

m Alex. Gen. dier. li. 3. c. 7.

LIB

LIB. 2. SECT. 3.

Of the Romane games.

CAP. 1.

De ludis Megalensibus.

THe plaies vsually exhibited by the *Romans*, may de diuided into three sorts some were *Ludi sacri*, others *Honorarij*, others *Ludicri*. Those were tearmed *Sacri*. which were instituted immediatly to the honor of the Gods: such were these that follow in their seuerall chapters. *Megalenses ludi*, they were called simplie *Megalesia*, from the Greek word μέγας, finifying *Magnus*, because they were performed in honour of *Cybele*, called *Magna-mater*, of which I haue spoken formerly, and there also discouered the manner of this feast. Only here take notice of that which is not mentioned there, namely that these games beganne, *à pridiè Nonas Aprilis, id est*, on the fourth of *Aprill*, and continued sixe daies after: it appeareth by diuers authors, but more especially by, *Ouid*, who could not easily be corrupted, *Ouid, Fast. lib. 4.* He hauing spoken of the rising of the *Pleiades*, which is on the second of *Aprill*, addeth

Ter sine perpetuò cœlum verſetur in axe,
Ter iungat Titan, terq; reſoluat equos,
Protinus inflexo Berecynthia tibia cornu
Flabit, & Idææ feſta parentis erunt.

[a] Liv. lib. 29. This I note, that the errour crept into [a] *Liuy* may be obſerved who treating of the matter in hand ſaith. *In ædem victoriæ, quæ eſt in Palatio, pertulere Deam pridie Idus Aprilis, isq; dies feſtus fuit: populus frequens dona Deæ in Palatium tulit; Lectiſternium, & Ludi fuere, Megaleſia appellata.* That is, that theſe plaies were celebrated vpon the twelfth of *Aprill*. But in the iudgment of many expoſitors, we are to read *Pridie Nonas*, for *pridie Idus*. Moreouer ſeruants might not be ſpectators here, & becauſe the *Prætors* did frequent theſe ſports in their purple and beſt robes, [b] hence grew that prouerb, *Purpura Megalenſis*. To the younger ſort at this time, liberty was graunted, to counterfeit all mens geſtures and ſpeeches, without diſtinction of degree or age. [c] They were ſometime tearmed *Ludi ſcenici*, though properly *Ludi ſcenici*, ſignified ſtage playes, and were perfourmed in the honour of *Bacchus*.

[b] Ant. Conſt. in Ovid. Faſt. lib. 4.

[c] Iul. Scalig. poet. l. 1. c. 29.

Cap. 2.

Ludi Cereales.

THat theſe games were perfourmed in the honour of *Ceres*, is by none doubted. In them was repreſented by the *Roman* matrons, *Ceres* her lamentation for her daughter *Proſerpina*, taken away by *Pluto*; the *Roman* men beheld theſe plaies in white gownes: the women perfourmed the ſacred and holy rites in a white garment alſo. Among whom it was obſerued, that then they thought their ſeruice gratefull to the Gods, when it was perfourmed by thoſe that were ioyfull, and free from all funerall pollutions. At this time there was a ſolemne going in proceſſion & carrying about their Gods in the cirque, this ſolemnity was pro-

properly called *Pompa*:

Circus erat pompâ celeber, numeroq; Deorum,
Primaq; ventosis palma petitur equis.
His Cereris ludi, &c. Ovid. Fast. lib. 4.

The manner of this solemne shew, which as I noted was properly called *Pompa*, is described[d] thus by its particulars. That there was, *Simulachrorum series, imaginum agmen, currus thensæ, armamaxæ, sedes coronæ, exuviæ, id est.* First in this solemne possession, were carried about the Images of the Gods. *Secondly*, the Images of weli deseruing men. *Thirdly*, charriots led vp anp downe for greater state, and magnificence; vnto this *Virgill* alludeth

----Hic illius arma
Hic currus fuit----

Fourthly, Pageants, so I interpret *thensæ*, which were so called, *quasi tensæ, à tendendo*, as[e] *Asconius* noteth, because they were carried vp and downe, by the help of certaine ropes, which to touch they counted a point of religion. *Fiftly*, horse-litters, for that these *armamaxæ*, were not chariots, or wagons, appeareth by him[f] *Qui ex curru in armamaxam deponebatur.* They seeme to haue beene of a compounded forme, in part like chariots, called ἅρματα, in part like waynes, called ἅμαξαι, and thence ἁρμάμαξα hath its appellation: ἁρμάμαξα, inquit, *Phavorinus*, ἢ πρὸς ἀνδρῶν καθέδραν κατασκευασθέν ἅμαξα, διον ἅρμα ἢ ἅμαξα, ἢ ἀνδραμάξαί τις ἔσα, ἢ ἄγουσα τὸν ἄνδρας. In which words besides the etymologie expressed, the vse thereof is declared to be for the carriage of men. That as the chariots went empty for greater magnificence, and as in their pageants were carryed, the *Simulachra Deorum*, according to that, [g] *Thensa Deorum vehiculum*: so in these horse-litters were carryed men, or rather that same *agmen imaginum.* which was the second particular: *Sixtly*, chayres of state: *Seaventhly*, crownes: *Lastly*, spoiles taken from their enimies; these three last I take to haue beene vsed chiefely, and principally in the *Roman* supplications, or publique thanksgiuings

d Ter. de spect. cap. 7.

e Vid. Franc. Iun. annot. in Tert. de spect. It. de tensis vi Turneb. 29. 27.

f Herodot. l. 7.

g Alex. ab Alex. lib. 2. c. 30.

giuings, for any great victory, the custome being in such shewes, when they came to such and such remarkeable places in the cirque, to pitch a certaine chaire, adorned with crownes of victory, and spoiles taken from the enemy, reputing it not the least office,[h] thus to honour their Emperour though absent with the prerogatiue of such a chaire: now in the preparation to this particular shew, we read that an egge was especially prouided. It it obserued by [i] many out of *Macrobius*, whose words are; *Ovum ⁊ in Cerealis Pompæ apparata numerabatur primum.* The obseruation is generall, but the reason thereof, *Inter arcana Cereris*, quite suppressed, & by none, that euer I could meete with, yet explained; if my coniecture may satisfie in a matter so obscure, cõceiue it thus. These pompous shewes, were vacious, and in the honour of diuerse Gods, & accordingly the *Romans* made choice in every such solemnity, of some one principall thing in their shew, vnto which the glory of the preſẽt solemnity should in more especiall manner belong: Thus in the *Pompa circensis*, which was celebrated in the honour of the [k] Sun. great horses were led vp and downe, for greater state. [l] *Quia equis, & equestribus exercitamentis, sol præesse credebatur superstitione antiquissima.* Hence the cirque place it selfe was called τὸ ἱππικὸν, & ἱπποδρόμιον. After this same manner in this *Pompa Cerealis*, (which was also some times called *Circensis* from the place where it was exhibited) an egge was chiefely and principally provided, for seeing that vnder the name of *Ceres*, this solemnity was perfourmed to the *Earth*, how could the *Earth* be more honoured, then by bearing about the hieroglyphicke of the whole world? As if they did intimate thereby, that euen heauen it selfe was beholding to the *Earth*.

---Pecori frondes, alimentaq́ mitia fruges
Humano generi, vobis quoq́ thura ministro. Ovid. Met. l. 2.

And such an hieroglyphicke [m] *Cœlius Rhodiginus* proueth an egge to be, partly from its cicular & globe-like forme; partly from the matter whereof it consisteth; the hard shel, resembling

[h] Vid. Isaac. Casaub. in Sueton. Iul. c. 76.
[i] Hosp. de orig. fest. Rosin. lib. 5. cap. 14. Alex. ab Alex. lib: 6. cap. 19.
[k] Solis honore noui grati spectacula circi. Antiqui sanxere patres. Corip. Afric. lib. 1. num. 17. vid. Dempster.
[l] Franc. gun. annor. in Ter. de spect. c. 8.
[m] Cœl. Rhod. lib. 27. cap. 17.

bling the soild earth; the more spirituous part there of, the aire: the moist and liquid part, the water, the yolke, the element of fire; yea he noteth also, that as there is *in mundo*, so likewise *in ovo, vis vitalis.* a kinde of quickning, and enliuening power in both. Otherwise if this opinion giue not content, we may interpret the carrying about of this egge, to be in the honour of *Castor* and *Pollux*, for as there were markes or goales in the Cirque, some in the forme of *Dolphins*, in the honour of *Neptune*: so were there others [n]ὠοειδῆ σημειώματα, markes of a long roundnesse, in forme of an egge, in memory of [o] *Castor* and *Pollux*, which were *ovo editi*; according to that of *Horace.*

n Dio. lib. 49.
o Tertul. de spect. cap. 8.

Ovo prognatus eodem. Hor. serm. 2. sat. 1.

For the same reason happyly it was, that an egge was at this time carryed vp and downe, as the chiefe and principall ensigne.

Cap. 3.

Ludi Florales.

THese Games or sports, were instituted in the honour of the Goddesse *Flora*, that shee being there with appeased, the earth might bring forth flowers, & fruits in greater abundance. Of the Goddesse it hath beene spoken before. The time of the yeare when these sports were obserued, [p] was vpon the foure last daies of *Aprill*, and the first of *May*, whence is that of *Ouid. Fast. 5.*

p Alex. ab Alex. lib. 6. c. 8.

Incipis Aprili, transis in tempora Maij:
Alter te fugiens, cum venit alter habet.

The manner thereof, was, that shameleſse strumpets, did then runne vp and downe the streets naked. vsing many lasciuious and obscene gestures, and speeches, they were called together by the sound of a trumpet, vnto which *Iuuenal* alludeth.

----Dignissima prorsus
Florali matrona tuba.

More-

Moreouer, whereas in other games, Boares, Lyons, & Bares, were publiquely bayted, to recreate the spectators: here only Goates, and Hares, and such milder beasts were hunted, [q] because the Goddesse *Flora*, had not the custody of woods, and forrests where the wilder beasts ranged; but of gardens, and medowes. At this time also Elephants were brought forth into the publique view of the people, which were taught [r] to walke on ropes, and that there is an aptnes in elephants to goe forward and backward on ropes, [s] *Pliny* testifieth.

[q] Hosp. de orig. Fest.

[r] Suet. in Gal.

[s] Plin. l. 8. c. 3.

Cap. 4.

Ludi Martiales

Of these sports there is not much spoken: [t] they were obserued vpon the first of august, because on that day the temple of *Mars* was consecrated. They were first instituted [u] by *Numa Pompilius*.

[t] Dio. lib. 60.

[u] Ter. de spe. cap. 5.

Cap. 5.

Ludi Appollinares.

There was an ancient Poet called *Martius*, [*] out of whose writings, as likewise out of the *Sibilline* oracles, the *Romans* were admonished to dedicate certaine games vnto *Apollo*. At the first celebration of them, [x] it is reported, that a suddaine and vnexpected inuasion of enemies, enforced the *Roman* people to forsake their sports, and to betake themselues to weapons: in which time of their distraction, a cloud of darts and arrowes was seene to fall vpon their enemies, so that they presently returned conquerours vnto their sports, where [y] at their returne they founde one *C. Pomponius*, an old man dancing to a minstrell, and being very ioyfull, that their sports had beene continued with-

[*] Liu. lib. 5. dec. 3.

[x] Macrob. l. 1. Sat. c. 17.

[y] Sext. pomp. Fest. vid. Hos. de orig. fest.

without interruption they cryed forth, *Salva res est, saltat senex.* Which speech afterward became proverbiall, and is fitly vsed, when a suddaine evill, is seconded with a good event, beyond hope or expectation.

Cap. 6.

De ludis Romanis, qui & Magni, & Consuales, & Circenses dicti.

THese solemnities are sometimes called *Romani ludi*, because of their antiquitie amongst the *Romans*, being first instituted by *Romulus*: sometimes *Magni ludi*, either because of the great charge and expense of mony at that time, or because they were performed in the honour of their great God [a] *Neptune*, called also *Consus*, because hee was reputed the God of secret *counsels*, whence the solemnities themselues are sometimes called *Consualia*: whereas many of the *Roman* temples, for certaine misterious significations, had their peculiar manner of building. [b] *Servius* noteth, that the Temple in the great Cirque, dedicated to *Consus*, was covered, to signifie that counsells must be secreted, and concealed. Likewise for the same reason, [c] his altar was made vnder the earth, not appearing in publique view, saue only in the time of these solemnities exhibited. The chiefe ceremonies vsed at this time, consisted in the adorning of their horses, and asses, with garlands, wherein they thought that *Neptune* was honored, who was the first autor and inuenter of horse-riding: hence *Neptune* himselfe is called [d] ἵππιος. This festival was first instituted by *Evander*, in the honour of *Neptune*, vnder the name of ἵππιος, & [e] thence the feast was called ἱππικὰ λία. Afterward it was renued by *Romulus*, in the honor of *Neptune* likewise, but vnder the name of *Consus*, because *Romulus* needed a God of counsell to assist him, in that designement of his, for the violent taking away of so many

[a] Tertul. de spect. cap. 5.

[b] Serv. in Virg. Æn. lib. 8.

[c] Alex. ab Alex. lib. 5. c. 26.

[d] Vid. Suid.

[e] Dion. Hal. lib. 1.

many *Sabine* women, as were takē away at the first celebration of these games. The reason of *Romulus* his institution of them, being no other, but that vpon the fame of these new sports, many *Sabine* women flocking thither to be spectatours, his proiect might be the sooner effected. These & the cirque-shewes, so often mentioned in ancient authors, at first were all one, as appeareth by that of [f] *Valerius*. *Ad id tempus circensi spectaculo contenta erat civitas nostra, quod primus Romulus raptis virginibus Sabinis consualium nomine celebravit.* Touching these cirque shewes, some are of opinion that they were performed in the honour of *Ceres*, this *Iulius Scaliger* [g] disliketh, & he is of opinion, they were celebrated in the honour of *Neptune*: others are of opiniō they were instituted in the honour of the *Sun*. Al opinions may be reconciled, if we vnderstand first, those authors who ascribe these cirque shewes to *Ceres*, to speake of the *Cereales ludi*, which we read sometimes to be called *Circenses*, because they were exhibited in the *Cirque*: Secondly, if we distinguish the *Pompa Circensis*, from the *Circenses ludi*, and from the *Cereales ludi*. The *Cereales ludi*, were instituted in the honour of *Ceres*; the *Circenses ludi*, in the honour of *Neptune*; the *Circensis Pompa*, in the honour of the *Sun*. And furthermore for the full vnderstanding hereof, we must knowe that the horses brought into the Cirque at this time, were of two sorts: some were only *πομπικοὶ*, such as were led vp and downe for shew & state; I vnderstand *Alex. ab Alex.* to speak of these horses, when he saith [h] horses were consecrated to the sunne; nay I vnderstand those horses mētioned *2. Kings, 23.* to haue been of the like superstitious invention; where it is said: that *Iosiah* did put down the *horses given* to the *sun*, & the *Chariots of the sun*. That practise, I say, hath neere affinity with this of the *Romans*, but I thinke it to haue beene originally derived to the people of *Iudah*, from the *Persians*, who also accounted holy to the sun, [i] & the *Persian* king whē he would shew himselfe in great state, caused an exceeding great horse to

f Val. Max. lib. cap. 4.

g Iul. Scal. lib. poet. cap. 32.

h Alex. ab Alex. l. 3. c. 12.

i Cœl. Rhod. antiq. lib. 8. c. 2

to be led vp and downe, which was called *Equus solis.* Other horses were for exercise and race, we may call them ἱππικὰς, the institution of these I suppose to haue beene in the honor of *Neptune.* The prizes or masteries exercised in time of this cirque-shew were many. Fencing, and that vntill one of the combatants were killed in the place; fighting with beasts; wrestling; running of races on foot; iumping and leaping; horse-racing; sea-skirmishes exhibited in some riuer; coach-races; and fighting at whorlebats. Howsoeuer the nature & manner of these games, are in some measure vnderstood by the very names, yet a more large discourse concerning the two last, will be very behouefull, for the the more full vnderstanding of the *Roman* history. These coach-racers, when this maner of race was first instituted, were divided into two companies, which they tearmed *Factiones albas, & russeas:* distinguishing each faction or company, by the different colour of their [k] coats. Afterward they were divided into foure companies, distinguished alwaies by their colours: whence came that distinction; *Factiones Prasinæ, Venetæ, Russatæ, Albatæ;* which colours may thus be englished. The first signifieth a deep green; the next a kind of russet inclining to red; the third a Venice blew, or Turky colour; and the last a perfect white. Of these [l] *Tertullian* speaketh as followeth: *Aurigis, coloribus idololatriam vestierunt, & ab initio duo soli fuerunt, albus & russeus. Albus hyemi ob nives candidas: russeus æstati ob solis ruborem voti erant: sed postea tam voluptate, quàm superstitione provecta; russeum, alij Marti, alij album Zephyris consecraverunt: Prasinum verò terræ matri, vel verno: Venetum cœlo & mari, vel autumno.* As the Emperour, so the people; sometimes fauoured one faction or company, sometimes another, & accordingly as they favoured the cõpany, they would lay wagers on their side, which wagers they tearmed by a peculiar name *Sponsiones*, this [m] *Turnebus* interpreteth *Tertullian*, where he saith that the people flockt to these races, sometimes for one reason, sometimes for another

[k] Henr. Salm. in Pancir. cap de Circo Max

[l] Tertul. de spect. cap. 9.

[m] Turneb. adu lib. 8. cap. 4.

ther, but sometimes [n] *Sponsionibus concitatus, id est*, stirred vp with a desire of abbetting, or laying wagers. To these foure [o] *Domitian* in his time added two other companies, the one wearing cloath of gold, the other of purple: but these latter remained not long in vse. Their fighting at whorlebats they tearmed *bellare cestu*. The maner of this fight conceaue thus, the combatants had in each hand a strap of leather, with which each stroke at the other (for we must knowe that this kind of fight, succeeded fistie-cuffes, & because in fistie-cuffs the party striking, did by the blow as well hurt his own fist, as he did him that was stroken, hereupon they invented this other kinde of fight with leatherne switches) these leatherne switches they called *Cestus*, from the [p] Greek κεστὸς, signifying a belt or girdle; to make the fight more dangerous, they did in after times tie peeces of ledde, or yron at the end of these leatherne straps, so that they did with the force of the stroke, often dash out one anothers braines, and vnlesse by the waight of the led or yron, the strap might chance to flye out of their hands, they caused each strap to bee tied fast to their armes, and shoulders: neither was this without reason, for those iron or leden poyses could not be but very weighty, being made in the bigneſse, and [q] forme of Rams hornes. Lastly, these cirque shewes, had their appellation *Circenses*, either from the great cirque, or shew-place, called *Circus Max*: where the games were exhibited; or from the swords wherewith the plaiers were environed, as one would say *Circa enses*. They much resembled those Grecian games called *certamina Olympica*, where the runners with Chariots, were hemmed in on the one side with the running riuer, and on the other with swords pitched point-wise, that they should hold the race on directly, and not swarue aside without danger. [*] Some haue thought them to be the same with *Ludi Gymnici*, so called from γυμνὸς, naked; because that those which did performe these kindes of exercises, did either put off all, or the greatest part of their cloaths, to the intent that they

[n] Tertul. de spect. cap. 16.
[o] Suet. in Domitian. cap. 7.
[p] Iul. Scaliger. lib. poet. c. 22.
[q] Aldus Manut. lib. 2. de quæst. per epistolam. epist. 8 vid. Rosin. antiq. l. 5. cap. 5.
[*] Rosin. antiq. l. 5. c. 5.

they might the more readily and nimbly performe their games; for which purpose they did also annoint their bodies with oyle. Whence we say, when a man hath lost his cost & labour. *Operam & oleum perdidit*; *oleum* in this place, signifying cost and charges, so that the proverbe was the same with that of the Coblers crow, *Opera & impensa perijt*.

Cap. 7.

Ludi Capitolini, & Agones Capitolini.

THE first institution of these games [r] *Livy* sheweth, where likewise hee intimateth the reason, why they were called *Capitolini*, to haue beene in the honour of *Iupiter Capitolinus*, because he preserued the *Capitoll*, whē it was assaulted by the *Gauls*: wee must distinguish these games from those other shewes called *Agones Capitolini*, instituted by *Domitian*: For those *Ludi* were exhibited yearely, [f] these *Agones* every fift yeare; In those was celebrated the deliverance of the *Capitoll*; In these Rhetoricians, & Poets, and men of other profession contended for the victory, & hence [t] *Rosinus* thinketh the *Poets Laureat* to haue taken their beginning. He is likewise of opinion, that *Iuvenall* alludeth vnto these solemnities,

[r] Liv. Dec. 1. lib. 5.

[f] Sueton. in Domit. cap. 4.

[t] Rosin. antiq. lib. 5. c. 18.

....Sed cum fregit subsellia versu
Esurit, intactam Paridi nisi vendit Agauen. Sat. 7.

Although the allusion may be granted, yet herein I thinke *Rosinus*, though otherwise learned to haue beene mistaken, in interpreting *Fregit subsellia*, by *Non stetit*; *Excidit*, or *Non placuit*; as if the Poet of whom *Iuvenall* speaketh, had beene conquered at this time. In my opinion neither will the purpose of *Iuvenal*, nor that phrase of speech admit that construction. Not the purpose of *Iuvenal*, for the scope & drift of that Satyre, is to shew, that be the Poet neuer so pleasing, or let him giue full satisfaction to the people, yet he shall re-

ceaue no benefit thereby, but a vaine and empty applauſe, ſo that he ſhal be compell'd to ſell thoſe very Poems, which are receaued with ſo generall an approbation, to buy victuals, and preuent hunger. Neither doth that interpretation agree with that phraſe, for *Frangere ſubſellia*, doth rather on the contrary, ſignifie the vehement acclamation giuen by the people, in approbation of the Poem, it being a poeticall elegancy, to expreſſe the vehemency and greatneſſe of the applauſe.[v] *Suidonius Apollinaris* vſeth the ſelfe ſame phraſe. *Hunc olim perorantem, & rhetorica ſedilia plauſibili oratione frangentem, ſocer eloquens vltro in familiam patritiam aſciuit.* Neither is that of *Virgil* vnlike.

[u] Sidon. Ap. l. 5. epiſt. ad Sapand.

Et cantu querelæ rumpunt arbuſta cicadæ.

Yea the *Grecians* vſed the ſame manner of ſpeech, [x] κατρέφειν ὁ τόπος, ἀπὸ τῶν Κρότων, καὶ τῶν κροτούντων. So that hereby, I think the Poet vnderſtandeth, that *Grande ſophos*, ſo often mentioned by *Martial*, it being a vſuall cuſtome amongſt the *Romans*, to ſignify their approbation of their Oratour or Poet, by the lowd acclamation of Σοφῶς, or ὀρθῶς. Vnto which *Horace* alludeth *de arte poet:*

[x] Polyb. in hiſt. 15.

----clamabit enim pulchrè, benè, rectè.

But to returne whence we haue digreſſed, theſe later ſolemnities were of ſuch note, that whereas the *Romans* formerly, made their computations of their greater yeare, called *Annus magnus*, by their *luſtra*,[y] now they made it by theſe *Agones Capitolini*. Againe wee muſt diſtinguiſh theſe *Agones quinquennales* inſtituted by *Domitian*; from thoſe *Ludi quinquennales* inſtituted by [z] *Auguſtus Cæſar*, in memory of the victory, which he got againſt *Antonius*, vpon the promontory *Actium*, whence they were called *Actiaci Ludi*.

[y] Hoſpin. de orig. feſt.

[z] Sueton. Aug. cap. 18.

CAP. 8.

Cap. 8.

De ludis sæcularibus.

AVthors agree not vpon the iuſt period of time, when theſe ſecular names were to bee renued; ſome are of opinion that they were to be celebrated every hundreth yeare; ſome every hundreth and ten, ſome once onely in three hundred: but in this all agree, that they were named *ſæculares*, from *ſæculum* which ſignified at leaſt an hundred yeares, [a] *ſæculum in centum annos extendi exiſtimabant.* Becauſe the full and compleat age of a man, might extend it ſelfe to the hundreth yeare, and ſeldome to many aboue an hundred: thence it was, that the forme of words vſed by the publike crier in proclaiming theſe games was [b] *Venite ad Ludos quos nemo mortaliū vidit, negꝫ viſurus eſt.* Vnto which [c] *Ovid* alludeth *Triſt. l. 2.* *Carmina----*

Iuſſerat & Phœbo dici, quo tempore ludos
Fecit: quos ætas aſpicit vna ſemel.

But the Emperours being ambitious of honour, & deſirous to be ſpectatours of the games in time of their owne reigne, they did often anticipate the time. *Claudius Cæſar* amongſt the reſt, proclaimed them within [d] ſixty three yeares, after *Auguſtus* had obſerued them, which occaſioned the people to deride his crier, inviting the people to thoſe ſhewes and ſports, which no man liuing either had ſeene, or ſhould ſee againe. Becauſe [e] ſome who were ſpectatours, nay actors in thoſe ſolemnities exhibited by *Auguſtus*, liued at the ſame time, when *Claudius* cauſed this to bee proclaimed. Theſe plaies were alſo [f] called *Tarentini ludi*, not from the Citie *Tarentum* in great *Greece*; but from a certaine place of the ſame name neere *Rome*, adioining to the riuer *Tiber*. All the Theatres at this time were filled, & ſacrifices offred through out all the *Temples*, for the ſpace of three daies, and three nights

[a] Roſin. antiq. l. 5. c. 21.

[b] Pol. Virg. de invent. l. 8. c. 1.

[c] Ov. Triſt. l. 2.

[d] Alex. ab Alex. l. 6. c. 19.

[e] Suet. Claud. cap. 21.

[f] Hoſpinian. de orig. feſt.

Herodian. lib. 3. in vita Seueri.

nights, which giueth light to that of *Ausonius*.

Trina Tarentinò celebrata trinoctia ludo.

The first day the Emperour, and the *Quindecimviri*, early in the morning ascended the *Capitoll*, and there offered sacrifice according to their wonted manner, thence they departed to the Theatres, to performe solemne plaies in the honour of *Apollo* and *Diana*. The second day the noble Matrons assembled together in the *Capitoll*, they offered vp supplications vnto their Gods, they feasted and sung hymnes, in the honour of the Gods. The third day seuen and twentie boyes, going along three and three, and as many maides in like manner, all of them nobly descended, and hauing both father and mother aliue, sung verses, in which they commended the *Roman* state to the protection of the immortall Gods. This was tearmed *Pæanas concinere*, which word *Pæan*, though it signifie primarily an hymne, or song of praise made to *Apollo*, who was called *Pæan*, [g] from παίειν, *à feriendo*; becausse of his victory gotten of the *Python*: yet [h] sometimes, and so in this place, it denoteth the praises in generall of all the Gods. Againe the phrase intimateth an eleuation of the voice in singing, with a kinde of rising from one note to another. Thus *Turnebus* maketh παιανίζειν, & κυκλίζειν to be opposite [i] *Videtur autem pæan contentionis vocis esse, minuitio remissionis.*

[g] Cæl. Rhod. antiq. lib. 7. c. 5

[h] Servius in Æn. lib. 6.

[i] Turneb. adv. lib. 1, cap. 12.

Cap. 9.

De ludis plebeijs, compitalitijs, Augustalibus Palatinis, Taurilibus, & Votivis.

OTher games there were performed in the honour of the Gods, which are rather named by Authors then explained, they are these that follow. *1 Plebeij ludi*, [k] which were celebrated in memory of the liberty procured to the *Roman* state, by the succession of Consuls in the place of

[k] Alex. ab Alex. lib. 6. c. 19.

of Kings: or as others say, in memory of the reconciliation, wrought between the Senators & the Cõmonalty, by reason of their great oppression at that time, when the Commons in a kinde of mutinie departed to the *Aventine* mount. 2 *Cõpitality Ludi*, so called because they were vsually solemnised in *Compitis* (*id est*) in the crosse waies, and open streets, [l] they were first ordained by *Servius Tullius*, in the honour of those Gods, whom they tearmed *Lares*, in memory of his natiuity. The forme of words vsed by the *Prætor*, when he signified to the people the time of these solemnities, was as followeth. [m] *Die noni post Calendas Ianuarij Quiritibus compitalia erunt.* Concerning which words, [n] *Gellius* noteth, *Die noni Prætor dicit, non die nono, neq; Prætor solùm, sed plærag; omnis vetustas sic locuta est.* 3 *Augustales ludi*, performed in the honour of *Augustus Cæsar*. 4 *Palatini ludi*, so named, because they were performed in the *Palatine* mount. Some are of opinion that they were instituted in the honour of [o] *Iulius Cæsar*; others in the honour [p] of *Augustus*. 5 *Taurij ludi*, which receaved their name from *Taurus*, a bull: They were first ordained by [q] *Tarquinius superbus*, when there happened a great pestilence amongst the womẽ with child, occasioned by much bull-flesh sold vnto the people, for the remoueall of which plague, these games were instituted, in the honour of the infernall Gods. They are sometimes also called *Boalia*, *& Bupetij*. 6 To those may we add their *Votuos ludos*, which were also performed in the honour of some God, vpon some speciall vow made. For whensoeuer the *Romans* did vndertake any desperate warre, then did some *Roman* Magistrat *Vovere ludos, vel templa*, conditionally that they got the conquest; whiles the Magistrat vttered this his vow, he was said *Vota nuncupare*, or *facere vota*, (*id est*) to make a solemne vow vnto the Gods; [r] the vow being thus made, hee which made it did write it in paper, & with wax fastened it to the knees of their Gods, thereby binding himselfe the more strongly, to the performance; and this in *Pliny* his phrase is *signare vota:*

[l] Plin. lib. 36. cap. vlt.

[m] Macrob. l. 1. Satur.

[n] A. Gel. noct. At. l. 10. c. 24.

[o] Alex. ab Alex. lib. 6. c. 19.

[p] Dio. lib. 56. cap. vlt.

[q] Fest. vid. Hospin. de orig. fest.

[r] Turneb. adver. lib. 1. c. 17.

Iuvenal tearmeth it,

Genua incerare deorum. Satyr. 10.

After this he was said to be *Voti reus*, *id est*, conditionally bound & obliged to the performance thereof, so that the Gods might challenge the thing vowed as due debt, if they granted his request, yea after that the thing craued had beene obtained, then was he said, *Damnatus voti, vel voto* (*id est*) simply bound to the performance of the vow, so that by cõsequence, *Damnari voti, vel voto*, is to haue ones desire accõplished. Thus haue wee gone ouer the chiefe and principall games which were meerely *Sacri*, tending to religion; the second sort were, *Ludi honorary*, of which in the next chapter.

Cap. 10.

De Gladiatura.

SVch sports and plaies, which were performed by priuate men vpon their owne purse & charges, they seeking thereby to winde themselues into the affections of the common people, and to make way for their own preferment and honour, were tearmed [a] *Ludi honorarij*; & howsoeuer any game or shew might be tendered vnto the people in this respect, yet those of this nature, were for the most part, either *fencing*, or *stage-playes*: *fencing*, because the sight thereof was so often freely bestowed vpon the people, is therefore many times denoted by the latine word, [b] *Munus*; and those that bestow these sights, are for the same reason tearmed *Munerarij*. The first originall of this fencing, and sword playing, to the killing of one another, hath been deriued [c] from a customary practise among the Heathens, at the burials of their friends, who being perswaded that the shedding of mans bloud would be propitiatory for the soule deceased, hence would they buy captiues and slaues, purposely to be sacrificed at burials: afterward that this wicked spectacle

[a] Isaac. Casaubon. in Suet. Aug. 32.

[b] Lipſ. Sat. l. 1. cap. 7.

[c] Tertul. It. Seruius in Æneid. 10.

cle might be the more pleasant and delightfull, they changed their sacrifice into a fencing with art, where the combatants did fight for their life. This particular kind of Fencers were called *Bustuarij* from *bustum*, the place where dead mens bodies were burned; but ambition and crueltie, made these bloudy spectacles in after ages more frequent, insomuch that prizes at last were plaied not only at the toombes but in diverse other places, as the *Cirque* and *Amphitheatre*, &c: yea they were giuen as legacies by will and testament vnto the people, the prizes haue continued many daies together, and the number of the combatants somtimes exceeded number. At the first none would thus hazard their liues, but captiues and fugitiue seruants, which were enforced thereunto, being bought for that purpose, afterward those that were free-borne suffered themselues to be hired, for which cause they were tearmed *Auctorati* hirelings; [d] yea noble men themselues sometimes by reason of their decayed estates; sometimes to demerit the Emperour his loue, endangered their liues in this fight, those that were hired, bound themselues by a solemne oath to fight vnto death, or else they would yeeld their bodies to be whipt, yea and to be burnt, vnto which [e] *Horace* alludeth.

[d] Sen. ep. 100.

[e] Serm. 2. 7.

Quid refert, vri, virgis ferroq; necari
Auctoratus eas? an turpi clausus in arcâ?

The manner of this bloody spectacle was thus, the Master, or exhibiter thereof, did by a publique bill, giue notice vnto the people, what day the prize should be performed, how many couples were to combat, what their names, &c. thereby to procure the greater expectation & concourse of people, of this speaketh [f] *Sueton: Munus populo pronunciavit in filiæ memoriam.* [g] Ye they did in tables hanged in publique view, paint and represent, not onely the description of the place, but also the very forme and gesture of the fencers.

[f] Sueton. in Iulio.

[g] Plin. 35. 7.

---velut si
Revera pugnent, feriant, vitentq; moventes

Arma viri. Horat. lib. 2. Sat. 7.

Vpon the day appointed when all met, then were the weapons brought forth, and those, they were of two sorts: *Lusoria*, or *Exercitoria tela*, such as were the speare, & wands, or cudgells, that they might tosse the one, and fence with the other, and shew other feats of actiuity, all being but preparations to that more solemne & dangerous fight ensuing. The Greeks calleth them ἐσφαιρωμένα ἀκόντια, because of the little balls tied at the sharpe end of the weapons, to preuent dangers. Others were [b] *Decretoria tela*, so called, *Quia hæc velut decreto Prætoris, sive Editoris dabantur.* These were those, with which they really encounterd each other for life or death, and therefore sometimes they are called *Pugnatoria*, [i] *Seneca* speaketh of both. *Remoue istæ lusoria arma, decretorijs opus est.* And that the Apostle doth not allude to both, I dare not gainesay, *1. Cor. 9. 26. 27.* where hee saith οὕτω πυκτεύω ὡς οὐκ ἀέρα δέρων, ἀλλ' ὑπωπιάζω μου τὸ σῶμα. He did not beat the ayre, and flourish with those lusorious, and preparatory weapons, but he did truely fight against his naturall corruption, to the wounding and subduing of it; for [k] so ὑπώπια signifieth **putrified wounds.** That phrase of [l] *Senecaes* alluding to the fore-flourishings, is not much vnlike. *Aliud est ventilare, aliud pugnare.* This fore skirmish with cudgells was properly tearmed *præludium: Megara* speaking of *Hercules* his conquest over the two Serpents, assaulting him being yet an infant, saith, [m] *Præluſit Hydræ, id est*, that combate was but the prologue, preface, or introduction to that greater, which should ensue betweene him & the *Hydra.* Afterward when they betooke themselues to naked weapons, and to a reall fight, then were they said *Dimicare ad certum*, and *Versis armis pugnare.* This word [n] *Versis* being put for *Transmutatis.* In the act of fighting, they did frame & compose their body according to the rules of their art, for the better warding of themselues, and the readier wounding of their adversary. This frame and posture of the body

[b] Lipſ. Sat. l. 2. cap. 19.

[i] Senec. epist. 117.

[k] Suid. in voce ὑπώπια.

[l] Sen. l. 3. cont.

[m] Sen. Herc. fur. vers. 221.

[n] Lipſ. Sat. l. 2. cap. 19.

body, was by a peculiar name called *Status*, or *Gradus*. Whence arose those elegant Metaphors *Cedere de gradu*, *Demigrare de gradu*: To change ones purpose, and as it were to draw back from what he formerly intended. In like manner we say, *De mentis statu deijcitur*, or *deturbatur*; He is driven to change his minde, or in generall he is amazed. In the conflict oftentimes, the sword players after they had receaved any dangerous wounds, laid down the weapons, which though in extremity was a token of cowardise, neither were they therevpon acquitted or discharged; but this depended vpon the consent either of the Emperour, or the people, or the Master of the shew. This discharge was properly called *Missio*. Such was the crueltie of those times, that many prizes were proclaimed, wherein they fore-signified, that such discharges should neither be craued, nor granted: wherevpon [o] *Augustus Cæsar* made a decree, wherein *Gladiatores sine missione edi prohibuit*. Those combatants that ouercame, receaued by way of reward, sometimes mony, sometimes a garland, or coronet of palme tree, wound about with certain wollen ribbands called *Lemnisci*; the coronet it selfe was therefore called [p] *Palma lemniscata*, and hence figuratiuely hath *Palma* been translated to signifie the victory it selfe, & such a man as hath often gotten the prize, we say proverbially, that he is *Plurimarum palmarum homo*. The reason why the Palme-tree, rather then any other tree, should be giuen in token of victory, is rendred by [q] diverse approued authors to be this; because the Palme tree, though you put never so ponderous and heauy waight vpon it, yet it will not yeeld, but rather endeauour the more vpward. Sometimes the reward giuen by the people, was one of those wands, or cudgells vsed in the fore-skirmish. That wand was properly called *Rudis*, and it was giuen in token of liberty, signifying thereby, that he should thence forward lead his life free frō sheading of blood, alluding to which custome, this word [r] *Rudis* hath beene vsed to signifie any other kinde of free-

[o] Suet. Aug 49

[p] Franc. Sylv. in orat. pro Sext. Rosc.

[q] Arist. probl. 7. Plut. symp. 8 q. 4. A. Gell. l. 3. c. 6.

[r] Eras. Adag. Rudem accip.

dome or discharge: Whereupon, *Horace* said of himselfe, that he was *Rude donatus, id est*, discharged from his paines in poetry. Lastly, sometimes he that conquered receaued *Pileum*, a cap: And here it will not be amisse, to note the difference betweene *Palma*, *Missio*, *Rudis*, and *Pileus*. *Palma* was only a token of victory, not of liberty, or discharge. *Missio* was not full discharge, but a kinde of vacation, or respite granted vpon request, vntill the morrow, or some other time: againe it was granted to those that were conquered, not to the conquerers. *Rudis* was a token of full discharge from bloudie combats, whereby a mans life might be endangered; but yet with this distinction, that if it were bestowed vpon free citizens, hired to be actors in these masteries, then were they thereby restored to their freedome also, which formerly they forfeited by the vndertaking such base conditions: to others which were formerly servants, or captiues, it was only a token of liberty and discharge. Notwithstanding sometimes vpon fauour, such servants or captiues, obtained together with their discharge from such fights, a priviledge also of enfranchisement, whereby they were thenceforward incorporated amongst free Citizens, the token hereof was *pileus*, for then they receaued a cap, which latter obseruation helpeth for the vnderstanding of *Tertullian*, where he saith. [f] *Qui insigniori cuiq; homicidæ leonem poscit, idem gladiatori atroci petat rudem, & pileum præmium conferat.* In which speech, the vniust, and the vnreasonable practise of those Heathens is displayed, whiles they iudge a man slayer to bee exposed to Lions and wild beasts: & yet notwithstanding will reward the bloudinesse of sword plaiers. These Fencers fought with diverse manner of weapons, and accordingly had seuerall names, the chiefe of which we read are these. *1 Retiarij*, so called from *reteiaculum*, signifying a flotenet vsed in fishing because this sort of Fencers, did fight with a cast-net in one hand, to catch, and claspe about their aduersaries head; and a three forked engin in the other, which they vsed insteed of a sword

[f] Tertul. de spect. cap. 21.

sword. Of this *Iuvenal* speaketh, *Satyr. 8.*

---- *Monet ecce tridentem,*

They did alwaies fight in their coats, whence that Epitheton floweth, *Retiarij tunicati.* The reason why they bore vp & downe sponges, which *Tertullian* calleth *spongias retiariorum* may be for the drying vp of the blood, and wiping, or stopping of the wounds, which vse of sponges [t] *Pliny* noteth. Now because these *Retiarij* were so light armed, they were compelled every time they strooke with their net, to retire backe vntill they recouered their net againe: & hence the second sort of fencers, which fought with them, were tearmed [v] *Secutores, ab insequendo,* from following and pursuing these *Retiarij.* The weapons wherewith these *Secutores* did fight, were a target, to keep off the net of the adversary; a sword; & an helmet. 3[ly], *Thraces,* so called from the *Thracian* weapons which they vsed, their Target was round and little, called *Parma,* it was at first in vse among the * *Thracians,* & afterward so proper to this sort of sword players, that [x] *Parmularius,* signifieth such a one as fauored this company, or faction of fencers. Their sword was a crooked falchion, tearmed by them *Sica.* The *Roman* souldiers did vse to weare two of these, along one on the left side, and a shorter on the right side, answerable to our sword and dagger, but the forme of the *Sica,* was alwaies crooked, according to that. *Sica δεξιὸν ξίφος ὀπισθοκαμπές.* Privie murtherers practising the killing of men, may seeme to haue vsed the lesser, as a pocket dagger; such are those *Sicarij,* of which there is such often mention in *Tully.* 4[ly] *Myrmillones,* they are sometimes called *Galli,* because they were appointed after the maner of the *Gaules,* their weapons were a sword, a target, an helmet with a creast in forme of a fish 5[ly] *Hoplomachi,* the name imports them to be armed in their fight, it is deriued from the Greek ὅπλον *vel* ὅπλα, *arma,* and μάχομαι, *pugno*: vntill *Augustus* his time they were named *Samnites,* their armour was an helmet with a tuft on the creast, a sword, a sheild, and a boot on the

[t] Plin. lib. 31. cap. 11.

[u] Lipsi. Satur. lib. 2. c. 7.

* Turn. Adv. lib. 5. cap. 10.

[x] Suet. in Domit. cap. 10.

[y] Alex. ab. Alex. lib. 6. c. 22.

the left legge. 6ly *Provocatores*, sometimes called *Prohactores*, these vsually fought with the *Hoplomachi*; their armour was a sword, a target, an helmet, and bootes on both legges. For as the footmen amongst the souldiers; so likewise, some of the sword-plaiers vsed bootes, for the safeguard of their legges, these bootes were made of *yron, and so common amongst the Grecians in warre, that bootes alone are oftentimes put to expresse the Grecians whole armature, as appeareth by that vsuall epitheton in *Homer*, ἀκνημίδες Ἀχαιοὶ *id est*, *Bene ocreati Græci*. These bootes they wore sometimes on both legs, sometimes on one, according as the manner of fight required. 7ly *Essedarij*, such as fought one against another out of wagons, so called from *Essedum*, a wagon or chariot. 8ly *Andabatæ*, *quasi* ἀναβάται, *aſcensores*, because they did fight on horse-back, or out of chariots. This sort of Fencers did fight winking, whence ariseth that Adage. *Andabatarum more pugnare*, the phrase is fitly vsed, when two ignorant persons, are hot in contention about that which neither vnderstandeth. 9ly, *Dimachæri*, called also *Orbelæ*, they fought each against the other, with two swords apeece, as the first name importeth. 10ly, *Laquearij*, such as fought with swords & halters, the vse of the halters, was the same as the *Retiarij* made of their nets, to cast about their adversaries necke or arme, that they might the easier wound them with their sword. Of all these sorts of fencers [1] *Lipsius* treateth largely, to whom I referre the reader. Only here let him take notice, that it was in the power of the people, to discharge any of these combatants in time of the fight, which discharge they signified, *premendo pollicem* by holding down their thumbe: or else to adiudge him to continue the fight, though in neuer so great danger, & this latter they signified *convertendo pollicem*, by turning vp their thumbe.

*Veget. vide Lipſ. de milit. lib. 3. dial. 7.

[1] Lipſ. Sat. 2.

---Et verſo pollice vulgi
Quemlibet occidunt populariter. *Iuven. Sat. 3.*

Moreover that there might be alwaies in readines, a sufficient

ent number of sword-plaiers, hence were their schooles erected, into which captiues, fugitiue servants, and notorious offenders, were sometimes condemned, sometimes sold. The Masters of these schooles were called *Lanistæ*, the schollers or vnder-fencers, trained vp there for more publike & dangerous fights, were called *Familiæ*. The word *Familia* is often taken in this sense, to signifie the whole company of vnder-fencers, belonging to one schoole, & the Master of defence, is for this reason, more then once by [m] Sueton called *Paterfamilias*. Moreouer, when one challenged another to these combats, they signified their challenge, by beckning with their little finger. *Horace* alludeth vnto this,

Crispinus minimo me prouocat, accipe si vis,
Accipe iam tabulas. lib: 1. Serm. 4.

This must be vnderstood of a beckning, and that with the little finger; for otherwise in time of the fight, if either of the combatants did hold vp his finger, [n] hee signified thereby that he did yeeld, and giue place vnto his aduersary: some thinke that *Persius* had respect vnto this custome, in that phrase. ----*Digitum exere, peccas, Sat. 5.*

[m] Sueton. Calig. 26. Ir. in Domit. 10.

[n] Alex. ab Alex. l. 4. c. 26.

Cap. 11.

De ludis Scenicis.

THE second sort of plaies bestowed on the people for their fauour, were *ludi Scenici*, stage-plaies. The reason of this name *scena* may be seene before.[x] The first institution of them was occasioned by reason of a great sicknes, which by no medicinary help could be remoued; The *Romans* superstitiously conceiting, that some new games or sports being found out, the wrath of the Gods would thereby be vnarmed. [y] Wherevpon, about the fowre hundreth yeare after the building of *Rome*, they sent for certaine stage-players out of *Hetruria*, which they called *Histriones*, from

[x] Lazius de Repub. Rom. lib. 10. cap. 11.

[y] Alex. Gen. dier. l. 6. c. 19.

the *Hetrurian* word *Hister*, which signifieth such a player. *Quia Hister Thusco verbo ludus appellatur, id nomen Histrionibus est inditum. Polidor. de inven. lib. 3. cap. 13.* Concerning the diuerse kindes of stage plaies I read of foure, called by the *Grecians, Mimicæ, Satyræ, Tragœdiæ, Comœdiæ*: by the *Romans, Planipedes, Attellanæ, Prætextatæ, Tabernariæ.* In English, Fables Mimicall, Satyricall, Tragicall, Comicall. These Mimicall players did much resemble the clowne in many of our English stage-plaies, who sometimes would goe a tip-toe in derision of the mincing dames; sometimes would speak full-mouthed to mock the country clownes; sometime vpon the top of their tongue to scoffe the citizen. And thus, by the imitation of all ridiculous gestures or speeches, in all kinde of vocations, they provoked laughter; whence both the plaies and plaiers were named *Mimi*, from μῖμος an imitator, or one that doth ape like counterfeit others; as likewise they were called *Planipedes*, because the Actors did enter vpon the stage *planis pedibus, id est*, [z] *Excalceati* barefooted. The second sort of plaies were called *Satyræ*, [a] from the lasciuious and wanton country-Gods called *Satyri*, because the Actors in these *Satyricall* plaies, did vse many obscene poems, & vnchast gestures to delight their spectators. Afterward these kinde of actors as we may cõiect, did assume such liberty vnto themselues; that they did freely and without controlement, sharply tax & censure the vices evẽ of kings, as well as of the commons, insomuch that now we call every witty poem, wherein the liues & maners of men are sharply taxed, A *Satyre*, or *Satyricall* poem. [b] *Satyra mordax fuit & salsum genus carminis.* These *satyricall* plaies were also called *Attellanæ*, from the citie *Attella* in *Campania*, where they were often acted. The third sort of stage-plaies, were called *Tragœdiæ*, from τράγος a Goat, and ᾠδὴ an Ode or song; because the actors thereof had a Goat giuen them as a reward. And likewise they were called *Prætextatæ*, from *Prætexta*, a certain *Roman* robe, which these actors

z Alex. ib.

a Antesignan. in suis obser. de metris comicis. Teren. præfixis.

b Vid. Erasm. adag. Κωμῳδίαι σατυρικαὶ.

tors did vse to weare in their plaies. The fourth sort were *comœdiæ*, from κώμαι, which signifieth villages, & ᾠδή: because these kind of actors did goe vp and downe the countrey acting these *Comedies* in the villages as they passed along. They were likewise called *Tabernariæ à tabulis, id est*, from the boards or pentices wherewith they were sheltred from the weather, whiles they were acting. These two last sorts of plaies, namely *Tragedies* and *Comedies*, being still in vse among vs, it will be worth our labour to consider the communities, wherein they agree; or likewise the proprieties or notes of distinction by which they differ. I find three sorts of parts, wherein they agree, namely *partes primariæ, accessoriæ, circumstantes*; parts principall, accessory, and circumstances, which are not so truely parts, as accidentall ornaments added to beautifie the plaies. The principall parts are 4. in respect of the matter treated of. For as far as the declaration or exposition of the matter in hand reacheth, without intimation of the event to ensue, so far reacheth the first part called πρότασις, which word signifieth no more then a proposition or declaration. But when the play enclineth to its heat and trouble, then ensueth the second part called ἐπίτασις, which signifieth the intention or exaggeration of matters. The third part is called κατάστασις, *id est*, the state and full vigor of the play. The last part which is an vnexpected change into a suddaine tranquility & quietnesse is called κατακλυσμὸς: whence by a *metaphor* it hath beene translated to signifie the end, or period of any other thing; or rather the inclination vnto the end, as *vitæ humanæ catastrophe*, the end of a mans life. In respect of the plaiers forsaking the stage, the parts were fiue; namely the fiue Acts. For the Actors did fiue times in every *Comedie* and *Tragedie* forsake the stage, & make as it were so many interruptions. The occasion whereof is supposed to haue beene this, that the spectators might not be wearied out with a continued discourse or action, but that they might sometimes be delighted with varietie intermixed. For

those breaches and chasmes betweene each act, were made vp and supplied, either by the *Chorus*, or *Musicke*. Where we must note, that every *Tragedie* and *Comedie* must haue fiue *Actus*, and no more, according to that of *Horace*.

Neve minor quinto, neu sit productior actu
Fabula,----

Againe wee must remember that it is not necessarie that the καταστασις should alwaies be contained in the first Act: though many times it hapneth so: for in *Plautus* his bragging souldier the *Protasis* is found in the second Act: and so likewise haue the other three parts, *id est*, *Epitasis*, *Catastasis*, and *Catastrophe*, their bounds vnbounded. These Acts are divided into severall scenes, which sometimes fall out more, sometimes fewer in every Act. The definition of a scene being [c] *Mutatio personarum*: Whence we call a subtile *Gnatho*, which can humour himselfe for all persons & times *omnium scenarum hominum*, a man fit for all parts. Now amongst the *Romanes* it was thought vnfit, that aboue three persons should come on the stage in one scene.

[c] Vid. Erasm. Adag.

Nec quarta loqui persona laboret. Hor.

The *partes accessoriæ* in a *Comedie* are foure, *Argumentum*, *Prologus*, *Chorus*, and *Mimus*. The first is the matter or subiect of the Comedy: the second is the Prologue, which is either ἐνθετικὸς, such as doth open the state of the fable, at which time there needeth no argument; or else συναλικὸς, such as commendeth the fable, or the Poet vnto the people; or lastly ἀναφορικὸς, such as shall refute the obiections and cauills of aduersaries. The third is *Chorus*, which speaketh betweene each Act; and this *Chorus* may consist either of one, or many speakers, and that either male or female: [d] but with this caution, that if a male be to be commended, then must the *Chorus* consist of males; if a female be to be commended, then must it consist of females. And alwaies whatsoeuer the *Chorus* speaketh, it must be pertinent to the Act past, or couertly intimating somewhat ensuing.

[d] Rosin. ant. cap. de trag. & com. lib. 5.

---Non

....Non quid medios intercinat actus,
Quod non proposito conducat & hæreat aptè. Horat.

It may seeme sometimes that in the midst of the play, some other sport was enterposed, as hunting, or fencing, or such like to delight the spectators with thegreater variety, whēce *Horat. Si discordet eques, medio inter carmina poscunt*
Aut versum aut pugiles.

These enterposed varieties were denoted by the name of *Diludia. Displicet iste locus, clamo, & Diludia posco. Horat.* The fourth and last accessory part, was *Mimus* the clowne, or foole of the play. Of all these parts a Tragedy hath only a *Chorus*. The *partes circumstantes*, or accidentall ornaments were foure, common to both, *Titulus, Cantus, Saltatio, Apparatus, id est*, the title of the play, Musicke, Dauncing, and the beautifying of the Scene. By the Scene in this place, I vnderstand the partition betweene the players vestry, and the stage or scaffold. This partition at the acting of a Tragedy was vnderpropped with stately columnes and pillars, and beautified with paintings resembling princely buildings, & the images as well of Gods as Kings. At the acting of a Comedy country-cottages and private buildings were painted in the out-face of the partition. In the *Satyricall* plaies the painting was ouercome with shadowes of mountaines and woods: The[e] first of these partitions they called *Scenam Tragicam*, the second *Comicam*, the third *Satyricam*. The difference betweene a *Tragedy* and a *Comedy*, which may bee collected out of[f] *Anteſignanus* are these: first in respect of the matter, because a *Tragedy* treateth of exilements, murders, matters of griefe, &c. a *Comedy* of loue toyes, merry fictions, and petty matters, the one being *δεινῶν μεσοχή*; the other *πάχυς μεσοχή*. In a Tragedy the greatest part of the Actors are Kings and noble persons; in a Comedy priuate persons of meaner state and condition. The subiect of a Comedy is often feigned, but of a Tragedy it is commonly true and once really performed. The beginning of a Tragedy is

[e] Alex. Gen. dier. l. 5. c. 16.

[f] Anteſig. in suis observ. de metris comicis Terent. præfixis.

calme and quiet, the end fearefull and turbulent; but in a Comedy contrarily the beginning is turbulent, and the ende calme. Another difference which *Anteſignanus* hath omitted is behouefull for vs to knowe, namely that the Tragedians did weare vpon the ſtage a certaine ſhooe, comming halfe way vp the legge in manner of buskins, which kind of ſhooe was called by them *Cothurnus*, and from that cuſtome it hath beene occaſioned, that *Cothurnus* is tranſlated to ſignifie a Tragicall and loftie ſtile, as *Sophoclea digna Cothurno*, matters beſeeming *Sophocles* his ſtile: and ſometimes a Tragedie it ſelfe. The Comedians did vſe an high ſhooe comming vp aboue the ankle, much like a kinde of ſhooes which plough men vſe to weare to keepe themſelues out of the durt. This kinde of ſhooe is called *Soccus*, by which word ſometimes alſo is ſignified a Comedy, as

Nigris medium impedijt crus Pellibus. Horat Ser. l. 1. Sat. 6.

Hunc ſocci cepere pedem, grandeſq; Cothurni. Horat.

g Anteſig. ib.

g All theſe ſorts of ſtage plaies both *Mimicall*, *Satyricall*, *Tragicall*, and *Comicall*, if they were acted according to the *Grecian* rite and cuſtome, then were they called *Palliatæ*, from *Pallium*, a certaine mantle which the *Grecians* did vſe to weare: if according to the Roman manner, then were they called from the *Romane* gowne *Togatæ*.

Cap. 12.

De Troiano ludo, ſive Troia.

IT was a cuſtome among the *Romans*, ſometimes in the yeare to haue a generall muſter of the younger ſort, who meeting in the cirque, exerciſed there, running, racing, riding at tilt, and other ſuch like feats of activity, whereby they might be trained vp for their better ſervice in the war. They choſe a Captaine, one or other of noble birth; [a] He was called *Princeps iuventutis*. They divided themſelues into diſtinct companies, ſometimes marching forward, one againſt

a Hoſpin. de orig. feſt.

gainſt another, ſometimes retiring backward, ſometimes skirmiſhing, ſometimes imbatling themſelues in one forme, ſometimes in another, as if it were a truefield pitcht. A large and full deſcription hereof we haue in *Virg. Æn. 5.* This game was called *Troianus ludus*; or ſimply [d] *Troia*, without the addition of any other word, becauſe *Aſcanius Æneas* his ſonne firſt brought it out of *Troy*, according to that of *Virgil* in the fore-quoted place,

Hunc morem, curſus, atq; hæc certamina primus
Aſcanius, longam muris cùm cingeret Albam,
Rettulit, & priſcos docuit celebrare Latinos.

d Suet. in Iul. cap. 39.

Among other ſports vſed at this time, [e] there was alſo a kind of morriske daunce, wherein the young men danced in harneſſe, after a warlike manner, being thereby trained, to exerciſe all parts of their body, by ſundry geſtures, as well to auoid all venues and defend themſelues, as to annoy & offend the enimie. This kinde of dance is generally called *Pyrrhica ſaltatio*; becauſe it was inuented by [f] *Pyrrhus*. Yea [g] ſome ſay, that *Suetonius* taketh *Troianus ludus*, and this *Pyrrhica ſaltatio*, for one and the ſame thing. Nay *Alexander* confoundeth both theſe, with thoſe other games tearmed *Iuuenales ludi*. But doubtleſſe herein he was miſtaken, for thoſe *Iuuenalia*, were inſtituted by [h] *Nero* [i] at the ſhauing of his beard, and had not their name, becauſe young men were the chiefe actors, [k] but becauſe old men would now by the practiſe of youthfull ſports, turne young againe. The actions at this time were ſo farre, from ſauoring of military diſcipline, that on the contrary, they were for the moſt part effeminate and wanton.

e Alex. ab Alex. l. 6. cap. 19.

f Plin. l. 7. c. 56
g Serv. in l. 5. Æn. It. Alex. ab Alex. loco ſupra citato.
h Sueton. in Meron. c. 11.
i Cœl. Rhod. lib. 19. cap. 22.
k Roſin. Rom. antiq. l. 5. c. 22.

CAP. 13.

Cap. 13.

De tesseris, talis, & latrunculis.

Before we treat of the game callad *Ludus tesserarius*, it will not be amisse first to cleere the word *tessera* from all ambiguity. The word hath foure remarkable significations, all alluding to matters of antiquitie, First it signified a watch word among the souldiers in the campe, whereby they discerned their enimies, or spies, from their own fellows;[o] *Alexand. ab Alexandro* giueth many examples hereof: *Augustus Cæsar* in his camp, gaue for his watchword *Venus genetrix. Pompeius magnus* gaue for his *Hercules invictus &c.* & this was called *Tessera militaris.* 2ly There was *Tessera frumentaria*, a certaine ticket, or token giuen by the Magistrate vnto the poore, at the tendring whereof,[p] at the beginning of every month, certaine doles & measures of corne were giuen; it is evident that at first there were such monthly distributions of corne, even by that endeavour of *Augustus* his, who for the avoiding of trouble, would had reduced all to three set distributions in the yeare, but prevailed not: sometimes insteed of corne, or happily ouer and aboue the corne, there were at certaine times, doales of mony giuen to the poore, which doale whosoeuer receaued, tendred his token or bill of exchange, termed *Tessera numeraria*; these two last acceptions, although they may be distinguished, yet because they both tended to the releefe of the poore, I haue ioined them together. Thirdly, there was *Tessera hospitalis*, a certaine token of wood, or such like matter, which vsually was cut in two by those who had engaged themselues mutually to entertaine each other, whensoeuer entertainement should be craued, yea this wooden ticket or tally being mutually accepted, it was lawfull for their posterity bringing this token, to challenge hospitality. Thus he in *Plautus*, having

[o] Alex. ab Alex. lib. 4. c. 21.

[p] Sueton. Aug. cap. 40.

ving formerly vsed *Antidomus* as his hoast, after *Antidomus* his death, he commeth vnto *Antidomus* his adopted sonne not doubting of entertainment for saith hee. *Deum hospitalem, ac tesseram mecum fero*, Hence from this custome, or tendering a token when hospitality should be craued, that adage hath beene deriued, *Tesseram hospitij confregit, id est*, He hath broken the league of hospitality. Lastly, *Tessera* signifieth a dye, where we must note that the word *alea*, which commonly is translated a dye, is a generall word, applyed equally both to the *Tesseræ*, and the *Tali*, to denote the vncertaintie of both games. *Tessera*, properly signifieth a dye; *Talus*, an huckle-bone, such wherewith children play Cockall. In determining the severall chaunces in these playes, Authors are not onely diuers, but in many things contrary each to other, neither can any certainety be gathered from their writings; whether my coniectures drawn from comparing their severall and contrary writings, may giue light for the right vnderstanding of decayed knowledge herein, I shall willingly submitte my selfe to the censure of the iudicious. The seuerall chaunces which I reade of are these, some arising from the number of poynts in the dye, as *Senio*, *Monas*. More vsually amongst the Grecians, [q] these two were termed Κῶος, & Χίος, ὁ μὲν γὰρ Χίος ἐκάλεῖτο ἓν, ἀλλὰ Κῶος ἓξ, *id est*, *Chius* answered our Ace, *Cous* our Sice. And this is confirby a prouerbe in vse among the Græcians. Κῶος πρὸς Χῖον, which the learned interpret to be, a comparison of vnequalls: a Pygmie, with a gyant, others named from the number I reade not of; Perhaps they played not with a single dye, but with three as wee vse in Passage, whence their chaunces might haue their name, not from the number of poynts in each seuerall dye, but from them all being cast. But that the *Tesseræ* had poynts in them, appeareth by the testimony of [a] *Turnebus*: And hence *Numeri*, is sometimes, vsed for *Tesseræ*.

[q] Suidas in voce κῶος.

[a] Turneb. adu. lib. 5. c. 6.

Seu ludet numeroſquê manu iactabit eburnos.

Ouid. 2. de Art. Amand.

That they vſed more *Tali* in their plaies, then they did *Teſſeræ*, [b] *Turnebus* obſerueth from that verſe.

[b] Turn. adu. lib. 6. cap. 10.

Non ſum talorum numero par teſſera.

Martial. l. 14. epigr. 15.

[c] Cœl. Rhod. lib. 20. cap. 27.

[c] *Cælius Rhodiginus* ſpeaketh more diſtinctly, ſaying that in their play they vſe three *Teſſeræ*, but foure *Tali*. Theſe *Tali*, were ſometimes called *Vulturij* as appeareth by the ſame [d] *Rhodiginus*, and likewiſe *Reguli*, the reaſon of both is rendred by [e] *Turnebus*, he being of opinion, that theſe *Tali* had not points in them as the *Teſſeræ*, ſayeth, *pro numeris effigies animalium habebant, vt vulturum, aut regulorum*, that they were termed *Vulturij*, is probable by that of *Plautus*.

[d] Cœl. Rhod. lib. 20. cap. 18.

[e] Turn. adu. lib. 5. cap. 6.

Tace parumper, iacit Vulturios quatuor.

Plaut. curcul. Act. 2. ſc. 3.

But that the cocklebones ſhould be called *Reguli*, I ſomewhat doubt, for no queſtion: but *Regulus* and *Baſilicus* in this place ſignified one and the ſame thing, the one being the *Latine*, the other the *Greeke* word, now *Baſilicus* as ſhall preſently appeare, ſignified the whole chaunce. So confuſed are the opinions of Authors herein, that to aſſigne the reaſon for euers chaunces name, or to reduce euery chaunce determinatly, either to the *Teſſeræ*, or the *Tali*, I thinke it impoſſible. Only ſome may be thus reduced, and in generall wee may conceiue probably, which chaunces were fortunate, which vnfortunate. The vnfortunate chaunce in the *Tali*, was commonly called *Canis*, or *Canicula*, or *Chius*:

[f] Lipſ. antiq. lect. lib. 3. c. 1.

The moſt fortunate chaunce *Venus*, or *Baſilicus*. [f] *Lipſius* taketh them both for one, and that not without ground, if we compare *Horace*, and Plautus; both of them treating of that old cuſtome of throwing theſe cocklebones at their feaſts, for the choice of their *Modiperator*, or maſter of the feaſt, which ſhould preſcribe lawes for drinking to the whole company. *Venus arbitrum,*

Dicet bibendi. ſaith *Horace.*

Lacto

Iacto Basilicum, propino magnum poclum.

Saith *Plautus, curcul:* and why may not this Cast be iustly termed *Basilicus*, seeing the *Modiperator* hereby designed, was by the *Græcians*, not only called συμποσιαρχος, but also βασιλευς, The King, Prince, or chiefe commander at the table. This cast was then brought to be thrown, when all foure cocklebones appeared not one like the other, but all with different faces, [g] *Venus consurgebat ex talis quatuor iactatis, vbi diuersam omnes ostendissent faciem:* with whome accordeth [h] *Turnebus. Venus erat, cùm nullus eodem vultu stabat talus.* *Hercules* was also a lucky throw, but whether the same as *Venus* I haue not yet learned.

[g] Cœl. Rhod. lib. 20. c. 27.

[h] Turn. adu. lib. 5. cap. 6.

The games with the *Tesseræ* I make no question were diverse, the ignorance of which, they being long since out of vse, haue caused much obscurity in this matter, one game there may seeme to haue beene in vse, where the iust number of eight seemeth to haue beene the chiefe cast, It was called [i] *Stesichorius iactus*, or *Stesichorius numerus*. The reason is rendred by *Rhodiginus*, because *Stesichorus* his tombe, erected at great charges for greater magnificence, *Ex octonis constabat omnibus, id est*, consisted of many eights; to wit, *eight angles*, or corners; *eight columnes*; *eight stepps*, or greeses. In their common game, the most fortunate throw is thought to haue beene three Sices, we call it in passage, a Royall passe, whence it was commonly called *Senio*;

[i] Cœl. Rhod. lib. 20. cap. 27.

---- Quid dexter senio ferret
Scire erat in votis, damnosa canicula quantum
Raderet, angustæ collo non fallier orcæ. Pers. Sat. 3.

Which one place of *Persius*, giueth light to this in three things. First, that the winning cast, was tearmed *Senio*, and if you make *Basilicus*, a terme common both to dice, & cocklebones; as *Venius* is we may fitly render it, a Royall passe. Secondly, the loosing cast *Canis*, or *Canicula*, in English a Dogge-Chaunce. Thirdly the manner of their play, both in their Dice, and Cocklebones, was by casting them, not immediatly

diatly out of their hand, but out of a diſh, or narrow mouthed veſſell, that there might be faire play, withour ſtriking, or cogging the dye; this veſſell *Perſius* calleth *Orca*, and deſcribeth it to haue a narrow mouth, or ſtreight necke. *Horace* applyeth it vnto the *Tali*, *Satyr.7.l.2.*

Mitteret in Pyrgum talos---.

Calling it *Pyrgus*, vſing the *Greeke* word πύργος a towre, or ſteeple ſo called from πῦρ fire; becauſe the forme thereof, being *acuminata*, reſembleth the riſing of fire: the word intimateth *Horace* his *Pyrgus*, to haue beene of the like forme, with *Perſius* his *Orca*. But to returne to the game, the chiefe caſt as I ſaid was thought to be when three Sices appeared, which opinion is ſtrengthned, by that common prouerbe: *Aut tres ſex*, *aut tres teſſera*, *id eſt*, either three Sices, or three Aces. And the firſt of theſe being the beſt, the other the worſt chance in the Dice: The prouerb implyeth thus much, I will put all to the hazard, I will winne all or looſe all. This caſt was alſo called *Mydas*, for as *Rhodiginus* ſpeaketh, *In Teſſerario ludo*, *Mydas iactus erat fortunatiſſimus*, with whom accordeth [k] *Dempſter*, prouing it out of *Suidas*.

[k] Dempſt. antiq. Rom. lib. 5. cap. 1.

Μίδας ὁ ἐν ευβόλοις ἄριστος

Mydas in teſſeris conſultor optimus.

This name ſignifying the beſt chaunce, was not appropriated to the *Teſſera*, but ſometimes alſo ſignified the fortunateſt chaunce of the *Tali*. Likewiſe from that of *Martial.lib.13.1.*

Senio nec noſtrum cum cane quaſſat ebur.

[l] Eraſm. adag. Chius ad Coum.

It is noted by [l] *Eraſmus*, that as often as an Ace hapned to be throwne, together with a Sice; ſo that *Senio*, and *Canicula* appeared together at one throwe, it was a looſing caſt. [m] *Suetonius* is cleere in the proofe hereof, if for *Aut* wee ſubſtitute *Et*, which vnleſſe we doe, it will be a matter of great difficulty, to make congruity of ſenſe. His words are, *Talis enim iactatis*, *vt quiſq; Canem aut Senionem miſerat*, *in ſingulos talos*, *ſingulos denarios in medium conferebat*, *quos tollebat vniuerſos*, *qui Venerem iecerat*. Turne *aut* into *&*, the ſence is obuious.

Looke

Looke who threwe an Ace and Sice together for euery dye he ſtaked and laid to the ſtocke a Dinere; which he tooke vp and ſwooped all cleane, whoſe luck it was to throwe *Venus*. *Euripides*, as I take it, was not a chaunce but a kinde of game, much reſembling that which is in vſe with vs, called one and thirty: The number of that game was Fourty, and the game called *Eripides*, becauſe *Euripides* was one of the Fourty chiefe gouernours in *Athens*, when the thirty Tyrants were depoſed. The reaſon of my coniecture is taken from [n] *Rhodiginus*, whoſe words are theſe: *Euripides numerum continebat quadragenarium, quoniam uidetur unus fuiſſe Euripides præfectorum quadraginta, poſt triginta Tyrannos Athenis exactos.* From all we may note, that the *Iactus pronus*, or *Iactus plenus*, that is the lucky caſt, wee may engliſh it Take all, was commonly called *Senio*, *Venus*, *Cous*: the *iactus ſupinus*, or *iactus inanis*: was likewiſe commonly knowne, by no other name then *Canis*, *Canicula*, or *Chius*, we may Engliſh it Blanke.

n Cœl. Rhod. lib. 20. cap. 27.

[o] Some haue deliuered their minde touching theſe plaies thus; that the *Tali*, or Cocklebones had but foure faces or ſides, and therefore yeelded fowre chaunces, and no more; the firſt is called *Canis*, or *Canicula*, or anſwering to our Ace: and it was the worſt of all: the oppoſite vnto it they tearme *Venus*, or *Cous*, and is accounted the beſt: *Merula* againſt ſenſe vnderſtandeth the number of ſeauen by it, it may ſtand for our Sice. The third bore the name of *Chius*, proportioned to Trey with vs, and the laſt *Senio*, which is as much as Quatre. For in theſe *Tali* there is no chaunce of Deaur, or Cinque. This opinion at firſt I confeſſe ſeemed plauſible to me, but how fully it diſcouereth the game, and how agreeable it is to antiquity let others iudge. The chaunces of the dice, or cocklebones, as they were tearmed *Iactus*, & *Miſſus*, caſtes: ſo alſo were they called [p] *Manus*, figuratiuely, as euery ſtroke in the fencing ſchoole, was termed *Manus*: The firſt acception of *Manus*, is prooued out of [q] *Suetonius*, where

o Barthol. Merula in Ov. de art. amand. l. 2.

p Lipſ. Saturn. lib. 2. cap. 20.

q Suet. Aug. 71.

where *Augustus Cæsar* speaketh thus. *Si quas manus remisi cuiq; exegissem, aut retinuissem quod cuiq; donaui, vicissem &c: id est*, If I had exacted those chaunces which I remitted euery one, and kept that which I bestowed, I had gotten &c. The second acception of *Manus*, is confirmed by [r] *Quintilian*, who calleth the second, third, and fourth strokes in fencing, *secundas, tertias, & quartas manus*. Our English phrase is not much vnlike; He hath had a good or bad, lucky or vnlucky hand. Another game there was of like nature played with table-men, the word *Latrunculus* translated a table-man, doth properly signify an hired souldier, such a one as serued for pay: whence *Latro*, whose diminutiue *Latruunculus* is, hath his denomination *ἀπὸ τῦ λατρεύειν â serviendo*. In this sense the word is vsed by [f] *Plautus*.

[r] Quint. lib. 5. cap. 14.

[f] Plaut. mil. glor. Act. 1. sc. 1.

Nam rex Seleucus me opere orauit maximo,
Vt sibi latrones cogerem, & conscriberem.

Secondly, because souldiers are so prone, and apt to commit robberies, hence *Latro*, and *Latrunculus*, hath beene vsed also to signify a theife or robber. And thirdly in a borrowed sense, these words ar applyed to signifie table-men, or chesse-men; because this game hath the expresse forme and representation of a warre, or batle, fought betweene two armies: Insomuch that [t] *Pyrrhus* King of Epire, being skillfull in plotting stratagems, first tought his souldiers that art of projecting, by playes and representations thereof in the table-men. [u] Some are of opinion, that it was first inuented in the seige of Troy, by *Palamedes*, who that he might keepe his souldiers in better order, allowed them this kinde of recreation, whence these chesse-men, are sometimes called *Palamediaci calculi*, they were made sometimes of wax, sometimes of glasse, sometimes of other matter, The game seemeth to haue beene the very same with that which we call chesse. Other games there were of lesser note for recreation, of which sort were principally these that follow; *Petaurum*, *Discus*, *Pila*, *Trochus*, *Nuces*, *πέταυρον*, from whence this latine word *Petaurum*

[t] Donat. in Terent. Eun. Act. 4. Sc. 7. ad Illud, Idem hoc iam Pyrrhus factitavit.

[u] Suidas in voce *τεῖβλα*

Petaurum commeth, signifiing properly a perch or pole, on which poultry rouſt, and hence the rope or ſtaffe on which light perſons were wont to dance, and try maſteries, was termed *Petaurum*. It ſignifyed alſo a certaine hoope, or wheele, through which actiue perſons would runne ſwiftly, their body ſo warily carried, that in their rũning, they would not touch the hoope or wheele, to this purpoſe *Alex. Neop.* ſpeaketh.[a] *Fuit quoq; petauri ludus admirationis præcipuæ, cum per circulos quiſpiam veloci curſu tranſvolat, corpore ita libra-to, vt circulum non offendat.* Such tumblers as were practized in this kinde of actiuity were thence called *Petauriſtæ*. *Diſcus* was a round ſtone in manner of a bowle, ſometimes made of yron, or braſſe, whoſoeuer could caſt it fartheſt got the victory: the players thereat were called δισκοβόλοι, from δίσκος and βάλλω to dart, or caſt out any thing. *Pila*, it ſignifieth a ball, and of it there were many ſorts. 1 *Harpaſtum*, which we may Engliſh a **Foote-ball**; [b] This ball being put downe in the midle, two companies of young men, ſtroue who ſhould driue it through the others goale. 2ly *Pila* which ſignified a diſtinct kinde of ball ſo called from the haire with which it was ſtuffed. 3ly *Follis*, a light kinde of ball, ſo called becauſe it was ſtuffed with a bladder: with this old men, and young children played. 4ly *Paganica*, this had its name *à pagis*, from villages and country townes, where it was chiefely in vſe, it was ſtuffed with feathers: of all theſe. *Martial. 14 45.*

Hæc quæ difficilis turget paganica plumâ,
Folle minùs laxa eſt, & minùs arcta pilâ.

Fiftly *Trigonalis*, and this I thinke both the *Pila*, and the *Follis* were called, in oppoſition to the *Paganica*: the reaſon of the name is taken, from the forme of the tenis-courts, which becauſe they were three ſquare, in manner of a triangle, [c] hence was the ball with which they played in ſuch courts termed *Trigonalis*. The players themſelues, were termed *factores*; thoſe that did caſt in the ball into the court, were called *datores*; and [d] hence *datatum ludere*, is to play at ball

a Alex. ab Alex. lib. 3. c. 21.

b Alex. ab Alex. ibid.

c Cœl. Rhod. lib. 12. c. 18.

d Turneb. adverſ. l. 7. c. 4.

ball, or elſe, we may imagine the reaſon of this phraſe to be, becauſe ſuch as in their play by negligence did let downe the ball, did *ſuram dare*: hold out their legge, to haue the ball flung at it. *Trochus*, it ſignifieth a top, as it was commonly called *Trochus*, from τρέχω to runne; becauſe of the ſwiftnes thereof: and likewiſe *Turbo* in latine, for the ſame reaſon: ſo ſometimes it was called *buxum*, from the matter whereof it was made, as.

---Buxum torquere flagello. Perſ. ſat. 3.

Nuces, with nutts they had many plaies, ſome of which are at this day in vſe. One holding an vncertaine number of nutts in his hand, his fellow that played with him, was to diuine whether the number was EVEN or ODDE. This *Horace* calleth.

Ludere par impar----

The *Grecians* ζυγὰ ἢ ἄζυγα. of this *Ouid. de nuce.*

Eſt etiam, par ſit numerus qui dicat, an impar:
Vt diuinatus auferat augur opes.

Sometimes they piled their nutts, three beneath and one on the toppe, in manner of a caſtle, of this *Ouid*: ſpeaketh likewiſe.

Quatuor in nucibus non amplius alea tota eſt,
Cùm ſibi ſuppoſitis additur vna tribus.

Yea, theſe nutte-games were ſo many, and ſo peculiar to children, that ſtriplings growing into mans eſtate, were ſtill reputed children, vntill they forſooke theſe nutte-ſports, whence *nucibus relictis*, ſounds as much, as childiſhnes being paſt: and this is thought to be the reaſon, why the [c] brideman, as ſoone as he was married vſed to caſt nutts among the people: intimating thereby a farewell to ſuch childiſh paſtimes. Many other childiſh games they had, among which one reſembled our CROSSE AND PILE: [f] they termed it *Capita vel navim*? becauſe the coyne which they fillipped or toſſed into the ayre, bore ſtamped on the one ſide *Ianus* his two faces, on the other ſide a ſhippe.

[c] Roſin. ant. Rom. lib. 5. cap. 37.

[f] Anton. Conſtan. in Ouid. Faſt. lib. 1

CHAP. 14.

Cap. 14.

De mensis & convivijs Romanorum.

BEfore we proceed vnto the deſcription of the *Roman* tables, we will explaine thoſe fiue tearmes, *Ientaculum, Prandium, Merenda, Cœna, & Comeſſatio.* Which fiue words doe ſignifie the fiue ſeuerall feedings each day; which children, old men, labourers, trauellours, & ſuch like, did vſually obſerue; for others of healthier and ſtronger conſtitution, did commonly eat but one meale, at the moſt but two in the day. *Ientaculum* ſignifieth their break-faſt, and it had its name, like as our Engliſh word hath, *à ieiunio*, from faſting: In former times it was called [a] *Silatum* from *Sile*, the name of a certaine hearb, with the root whereof, they were wont to ſeaſon that wine, which they had at breakfaſt: For as [b] *Plutarch* ſaith, their break-faſt was nothing but a ſop dipped in wine. In the ſame place, hee likewiſe ſaith, that in old time they had no dinner, but that which we call *Prandiũ*, was the ſame with them as *Ientaculum*, and thus much the Greeke word ἄριστον ſignifying a dinner, doth intimate, it being ſo called, *quaſi* ἀϱιστον, from ἄϱιστον, which ſignifieth the morning. The name *Prandium*, which wee render a dinner, was ſo ſaid *quaſi* πϱὸ ἐνδιον, ſignifying noone-tide, or mid-day. The third time of taking meat, was called *Merenda*: we may engliſh it our afternoones beauer: it was called alſo *Antecœnium*, becauſe it was taken a little before ſupper. [c] *Merenda eſt cibus qui declinante die ſumitur, quaſi poſt meridiem edendus, & proximè cœnæ; vnde & Antecœnium à quibuſdam dicitur.* The fourth time, was their ſupper, called *cœna, quaſi* κοινὴ, which ſignified as much as Common, [d] *quia antiquitùs ſeorſim ſolebant prandere Romani, cœnare cum amicis.* Their fift and laſt time of feeding, was called in Latine *Comiſſatio* by ſome, by moſt *Comeſſatio à comedendo.* [e] *Ioannes*

a Roſin. antiq. lib. 5. cap. 27.

b Plut. in ſym. lib. 8. q. 6.

c Iuſt. Lipſ. cent. 1. ep. 65.

d Plut. ſymp. lib. 8. q. 6.

e In orat. pro M. Cœlio.

nes Tiſtinus ſaith, that it is a beauer taken after ſupper, or a night drinking. But the chiefe feaſt, whereat they [f] gaue entertainement, being their ſupper, we will conſider theſe three things therein. Firſt *accumbendi vel diſcumbendi rationem*, that is, the manner of their lying at ſupper (for they did neither ſtand, nor ſit at table as we doe;) ſecondly, the forme & faſhion of their table; and laſtly the parts of their ſupper. The place where they ſupped was commonly called *Cœnaculum à cœna*, as our **dining chamber** is ſo called from our **dinner**. It was alſo called *Triclinium* or *Biclinium*, from κλίνη a bed: for ſometimes there were three beds, ſometimes but two about the table, vpon which the gueſts did ſit, or rather lye along. In this dining parlour, was placed a table, ſometimes made quite round, and for the common ſort of people it was made of ordinary wood, ſtanding vpon three feet; but for men of better ranke, it was made of better timber, inlaid ſometimes with wood of diuerſe colours, ſometimes with ſilver, and it ſtood vpon one whole intire foot, made of Iuory, in the forme of a great lyon, or Leopard, &c. Vnto the meaner ſort of theſe tables *Horace* alludeth.

[f] Lazius de repub. Rom. lib. 3. cap. 3.

----*Modò ſit mihi menſa tripes.* *Hor. Serm. 13.*

Vnto the other *Iuvenal.* *Sat. 11. verſ. 122.*

----*putere videntur*
Vnguenta at q; roſæ, latos niſi ſuſtinet orbes
Grande ebur, & magno ſublimis pardus hiatu.

Sometimes this table was made in the forme of an halfe moone, the one part thereof being cut in with an arch or ſemicircle, and then it was called *Sigma*, becauſe it did much reſemble the letter *Sigma*, Ϲ which as it appeareth by certain marble monuments, was in old time made like a *Roman* C. Hence is that of *Martial. lib. 14. 87.*

[g] Roſin. antiq. lib. 3. c. 28.

Accipe lunata ſcriptum teſtudine ſigma.

If any man ſhould demaund the reaſon, why they cut their table in that forme, I muſt confeſſe I haue not read any reaſon in any author bearing ſhew of probability. My conie-

iecture

iecture is this. It is agreed vpon by most authors, that in the round tables the one quarter was reserued void from guests that the waiters might haue a conuenient roome to attend: therevpon it seemeth not improbable vnto mee, that this crooked arch was made for the waiters. I acknowledge that this *Sigma*, hath beene translated diuersly by divers writers, as it appeareth by *Lipsius* in the forequoted place. By some it hath beene taken for the parlour, or supping chamber: so *Lipsius* in his *Antiquities*; by others for the supper or feast it selfe: so *Celius*. By *Lipsius* since it hath beene thought a certaine place, erected in the manner of a hemicycle, or halfe moone, against which they did place one continued bed, able to take six or seuen guests. But *Brodæus*, and *Ditmarus*, in my opinion, haue more truely taken it for the table it selfe. About the table that was perfectly round, were placed three beds, couered with tapestrie, or some other kinde of couering, according to the wealth and abilitie of the person, and thus

----Strato discumbitur ostro;

the beds being ready furnished, the guests lay downe in manner as followeth. Each bed contained three persons. sometimes foure, seldome or neuer more, except at their great and more solemne feasts. If one only lay vpon the bed, then he rested the vpper part of his body vpon his left elbow the lower part lying at length vpon the bed: but if many lay vpon one bed, then the vppermost did lie at the beds head, laying his feet behind the second his back; the second rested his head in the others bosome, hauing a cushion put betweene, laying his feet behind the thirds backe; in like manner the third and fourth did lye. The number of the guests was not great, seldome times exceeding nine: whence *A Gellius*[h] saith, that the number of guests should begin with the *Graces*, & end with the *Muses*, that is, they must not be fewer then three, nor more then nine. This also hath been the reason of that adage, [i]*Septẽ conuiuium, nouem conuitium faciũt.*

[h] A. Gel. noct. Attil. 13. c. 11. *Tribus aut nouem miscentur cyathis pocula commodis. Qui musas amat impares, Ternos ter cyathos attonitus petet Vates: tres prohibet supra Rixarum metuens tãgere Gratia Nudis iunctа sororibus.* Horat. carm. l. 3. Od. 19.

[i] Alex. Gen. dier. l. 5. c. 21.

Heliogabalus seemeth to haue beene delighted with the number of eight, [k] whence he inuited to supper *octo calvos, octo luscos, octo podagrosos, octo surdos, octo raucos, octo insigniter nigros, octo insigniter longos, octo præpingues, & octo nasutos, delectatus illo Græco proverbio, ἀπαντητὸ.* Those that were not invited, but came of their owne accord vnto a feast without bidding, by *Plautus* they are called *Muscæ*, flyes; by others they are called *Umbræ*, shadowes. Hence is that of *Horace.*

---Locus est & pluribus vmbris.

The party which inuited the guests, sometimes expressed his earnestnesse, by pulling and hailing one by the cloak: whence *Stuckius* obserueth, that when they would shew how earnestly they were invited, they would say, *Penulam mihi scidit*; he tore my cloake off my shoulder. Againe on the otherside, when they would shew, how easily the guest was intreated, they would say, *Illius ego vix tetigi penulam, tamen remansit.* Before the guests sate downe, their shoes were vsually pluckt off, that they might not foule the beddes, on which they did lie [l].

Accurrunt serui, soleas detrahunt,
Video alios festinare, lectos sternere, cœnam parare.

[m] They likewise did gird their heads with fillets and haire-laces, as often as they intended to drink more then ordinary, thereby to prevent the vapours, which otherwise would annoy the head: for which reason, they did likewise [n] vse garlands of yuie, and mirtle-tree, and roses; the coolenesse of which comforted the braine. These garlands were also *Symbolum plenæ libertatis*, a token of their full liberty. The carver in these feasts, was called from his artificiall setting and ordering the dishes vpon the table *structor*; & from his artificiall carving and cutting vp of the dishes, *Carptor. Tryphærus*, as appeareth by *Iuuenall. Satyr. 11.* was famous for his skill in caruing: he did set vp a schoole, teaching such as came vnto him by rules and precepts; and also shewing them the manner

[k] Stuckius de conui. l. 2. c. 2.

[l] Terent. in Heautont.

[m] Cœl. Rhod. l. 27. c. 26.

[n] Plin. l. 16. c. 1

manner of caruing: which that he might the better do, he furnished a table with seuerall dishes of meat, formed and fashioned in wood, with a dull knife, shewing his schollers after what manner, and with what gesture of their body, they should cut vp this or that dish. This supper, because of the wooden dishes of meat, was called *Cœna vlmea.* They diuided their supper vsually into three parts, which they termed their first, second, & third course. In the first course commõly was serued mulberies, lettices, sausages, & alwaies egges: as likewise in the last course (whether the second, or third) were serued, nuts, figs, grapes, but alwaies apples: [p] whence we say proverbially, *Ab ouo ad mala,* from the beginning of the feast to the end; or simply, from the beginning of any thing to the end thereof. The middle course, was the maine supper, and the chiefe dish thereof was called *Caput cœnæ:* In *Lipsius* his phrase, it is called [q] *Fundus & fundamentum cœnæ.* Their first messe they called the *proœmium*; the last the *epilogue,* which because it consisted so much of sweet and delicious meats, hence did they apply that vnto the second course, *αἱ ὑστέραι φρονήσεις σοφώτεραι, id est, Secundæ cogitationes sunt sapientiores.* If the table were well furnished with plenty and variety of dishes, it was called *Cœna recta,* or *cœna dubia: Recta* in this place signifieth as much as *vera:* thus ὀρθὸς among the *Græcians,* sometimes signifieth *verus & sincerus.* The phrase intimateth, that it was a true supper, opposed to that dole of meat distributed by princes to the people which from the panier or basket, in which it was brought, was called *sportula:* sometimes they distributed money insteed of meat: this also was named *sportula*: so that *sportula* denoteth any kinde of dole either of meat or mony, which as often as it was giuen in lieu of a suppper, it was opposed to *cœna recta.* Yea sometimes by *sportula* wee may vnderstand a light and short supper.

o Stuk. de conv. l. 3. c. 3.

p Panciroll. lib. rer. deperdit cap. de cibi capiendi modo.

q Stuk. lib. 3. de conviv.

Turneb. adv. lib. 5. cap. 10.

Promissa est nobis sportula, recta data. *Martial.*

The reason why a great feast should be tearmed *cœna dubia,* is

is, becauſe in ſuch variety of diſhes, the gueſt is many times doubtfull of which to beginne. Contrary to this is *cœna ambulatoria*, a ſupper where one diſh walketh through the table.

LIB

LIB. 3. SECT. 1.

Of the Roman Assemblies.

De Comitijs.

HITHER-VNTO haue wee insisted vpon the description of the most remarkable parts of the *Roman* citie, togither with the seuerall diuisions of the *Roman* people, as also the *Roman* religion, where wee haue seene the generall diuisions of their Gods and their sacrifices, with their ceremonies thereunto belonging, and likewise of the *Roman* games both greater and lesse. Now are we to proceed to that part of gouerment, which is politicall or ciuill: where we will first speake of their assemblies called *Comitia*, then of their ciuill magistrates, afterwards of their punishments, and lastly of so many of their ciuill lawes, as I haue obserued needfull for the vnderstanding of *Tully*, and that principally in his Orations. For the more easie conceaving of all which I haue prefixed one Chapter of the *Roman* yeare, treating there, of the *Calends*, *Ides*, and *Nones*: the knowledge of which is needfull for that which followeth.

CAP.

CAP. 1.

De Anno & partibus eius.

INasmuch as there cannot be a full knowledge of the *Roman* assemblies, without some generall vnderstanding of the *Roman* yeare, and the generall distinctions of the *Roman* daies, it cannot bee but worth our labour in this short chapter, briefly to consider what may bee spoken therein. This word *Annus*, is so called *quasi Annulus*, because (as the Greeke word Ἐνιαυτὸς signifieth) ἐν ἑαυτῷ εἶσι, *id est, in se convertitur annus*: which was the reason, why the Egyptians in their mysticall cyphers (called *literæ hieroglyphicæ*) did vse the picture of a serpent, hauing his taile in his mouth, to signifie an yeare. The time or space, of this yeare hath beene diuerse, according to the diuersitie of nations. [a] Some allowed no more daies to an yeare, then we doe to a month, whence that monthly space which the *Latines* called *Mensis* from [b] μήνη, signifying the Moone, they called *Annum Lunarem*. Some allowed foure monehs, some six months, some tenne. And thus *Romulus* measured his yeare, counting the months either from the number of our fingers, or from the time that a woman goeth with child, or from the time that a widdow commonly mourned for her husbands death, or lastly from the multiplication of vnities which in a simple number doth not exceed ten.

[a] Vid. Plin. lib. 7. cap. 48.

[b] Paulus Mar. in Ovid. Fast. lib. 1.

Quod satis est vtero matris dum prodeat infans,
Hoc animo statuit temporis esse satis.
Per totidem menses à funere coniugis vxor
Sustinet in viduâ tristia signa domo. *Ovid. Fast. lib. 1.*

Annus erat, decimum cùm Luna receperat orbem,
Hic numerus magno tunc in honore fuit:
Seù quia tot digiti per quos numerare solemus,
Seu quia bis quino fœmina mense parit,

Seu

Seu quòd ad vſq; decem numero creſcente venimus,
Principium ſpatijs ſumitur inde novis. Ovid. Faſt. lib. 3

Thus *Romulus* his yeare contained of months ten; of daies 304. But after this *Numa* added two months,

At Numa nec Ianum, nec avitas præterit vmbras.
Menſibus antiquis addidit ille duos. Ovid. lib. 1. Faſt.

Numa,[c] or as ſome ſay, *Tarquinius Priſcus* perceauing that the months did not alwaies fall out alike every yeare; but ſometimes the ſame month would happen in the ſummer, ſometimes in the winter, therevpon after long ſtudy & many inſtructions from the *Grecians*, finding the reaſon of this confuſednes, he added vnto *Romulus* his yeare fiftie daies, ſo that the whole yeare afterward was divided into twelue months; becauſe the moone had finiſhed her courſe twelue times in that ſpace; beginning their yeare then at Ianuary: becauſe then in his iudgement was the fitteſt time to beginne the yeare, when the ſunne being fartheſt from vs, did beginne to turne his courſe, and to come vnto vs againe; which is about Ianuary, the ſunne being about the Tropicke of Capricorne. Afterward vpon a ſuperſtitious conceit of the odde number, *Numa* added one day more vnto Ianuary, ſo that whereas at the firſt *Numa* his yeare did agree with the *Grecian* yeare, both of them containing three hundred fiftie foure daies; Now the *Romane* yeare contained three hundred fiftie fiue daies, which computation falling out too ſhort for the true yeare by the ſpace of ten daies, and ſix houres yearly, it occaſioned euery eighth yeare in the interpoſition of 3 whole months, which they called their leap yeares.[d] This cõfuſednes afterward *Iulius Cæſar* by long ſtudy remedied, adding the odde ten daies vnto *Numa Pompilius* his yeare. And leaſt the odd ſix houres might at laſt breed diſorder in their computation, he appointed that every fourth yeare a whole day ſhould be inſerted, next after the three and twentieth of February; which inſerting they called *Intercalatio* from an old verbe *Intercalo*, and that day they called *Intercalarem*.

[c] Vid. Geor. Merulam in orat. pro Q. Ligario.

[d] G. Merula in orat. pro Q. Ligario.

Now the day following being the foure and twentieth of Februarie, was alwaies the sixt of the Kalends of March,[e] & therefore becauſe of the interpoſition of that day, they called the leap yeare *Annum biſſextilem*, that is, the yeare where in there falled out two daies, which they called *Sext. Calend. Martij*. And the day thus interpoſed, was called *dies biſſextus*. This computation, which *Iulius Cæſar* found out, wee haue embraced, & doe at this day follow, calling our yeare *Annum Iulianum*,[f] and *Annum magnum*, hauing relation to the monthly yeare called *Annus Lunaris*; and ſometimes this great yeare is called, *Annus vertens à vertendo*, becauſe it is alwaies turning, and running on. * Moreouer wee muſt remember, that the Romans did begin their yeare at March; whence that month, which ſince hath beene called *Iulius* in the honour of *Iulius Cæſar*, was by them called *Quintilis*, becauſe it was the 5 month: and that month, which ſince hath beene called *Auguſtus*, in the remembrance of *Auguſtus Cæſar*, was by them called *Sextilis*, becauſe it was their ſixt month. Thus then the great yeare being diuided into twelue months, every month was diuided into three parts, *id eſt*, *Calendas*, *Nonas*, and *Idus*. The *Kalends* were ſo proper vnto the *Romans*, that[g] *Auguſtus Cæſar*, when he purpoſed neuer to doe what he was requeſted, was wont by way of proverb to ſay, that he would doe it *Ad Calendas Græcas*, that is to ſay in our Engliſh proverb, **At latter Lammas, never.** For the better vnderſtanding of which, I ſhall inſert three common verſes.

[e] G. Merula in orat. pro Q. Ligar.

[f] Roſin. ant. Rom. lib. 4.

* Hubert. l. 3. epiſt. fam. 18.

[g] Suet. Octav. Aug. c. 87.

Principium menſis noſtri dixêre Calendas:
Sex Maius Nonas, October, Iulius, & Mars,
Quatuor at reliqui: tenet Idus quilibet octo.

That is, the firſt day of every month is called the Kalends of that month. The 2. 3. 4. 5. 6. and 7. of theſe foure months, May, October, Iuly, and March, were called the Nones of that month: but in all the other months the Nones contained but the 2. 3. 4. & 5 day: ſo that the fift day (for example ſake)

ſake) of Ianuary was called *Nonæ Ianuariæ*, or *Ianuarij*, the fourth *Pridie Nonarum*, or *Nonas Ian.* (For they vſed alwaies to ſay *Pridie Cal. Pridie Nonar.* and *Pridie Iduum*, inſteed of *ſecundo Cal. Non. Id.*) The third day of Ianuarie, they called *tertium Nonarum, vel Nonas Ianuar.* the ſecond day of Ianuary they called *quartum Nonarum, vel Nonas Ianuar.* After the Nones followed the Ides, which contained eight daies in every month, ſo that the 15 day of the foure aforeſaid months, were called *Idus Maij*, *Idus Octob. Idus Iulij*, and *Idus Martij*. In all the other months, the 13th day was the Ides: as to proceed in Ianuarie, the thirteenth day was called *Idus Ianuar.* the twelfth *Pridie Iduum, vel Idus Ianuar.* The eleuenth *tertio Iduum*, or *Idus Ian.* the tenth *quarto Iduum, vel Idus Ian.* the ninth 5° *Id. Ian.* the eighth 6° *Id. Ian.* the ſeauenth 7° *Id. Ian.* the ſixt 8° *Id. Ian.* After the Ides then followed the Kalends of the next month. As the fourteenth of Ianuarie was *decimo nono Calendarum*, or *Calendas Februar.*; the fifteenth *decimo octavo Calend. Febr.* the ſixteenth *decimo ſeptimo Cal. Feb. &c.* Where wee muſt note that as often as we vſe *Pridie, tertio, quarto*, or any of thoſe numerals with an accuſatiue caſe, as *Pridie Calendas, &c.* the *Grammarians* ſay, that this prepoſition *Ante* is eclipſed; Againe every month had in its compaſſe three great markets, which becauſe they were obſerued euery ninth day, were called *Nundinæ*, and the latter of them being the greateſt is called by *Athenæus* τριτη ἀγχλησία, which we may render *Trinundinum*, or *Trinum nundinum*. It followeth now that I ſhould treat of the daies, which are the leſſer parts of the yeare: where before we proceed, wee will conſider the parts, which the *Romans* divided their day into.

- *Dies Ciuilis continet*
  - *Lucẽ, cuius partes sunt*
    - *Diluculum.* The breake of day.
    - *Mane.* The full morning.
    - *Ad meridiem.* The fore-noone.
    - *Meridies, quasi Medidies.* Mid-day, or *quasi Merus dies.* Perfect day, Noone.
    - *De meridie.* After noone.
    - *Solis occasus.* Sunne setting.
  - *Noctem, cuius partes sunt*
    - *Crepusculum.* The duske of the evening.
    - *Prima fax,* Candle-tining.
    - *Vesper.* The night.
    - *Concubium.* Bed time.
    - *Nox intempesta.* The first sleepe.
    - *Ad mediam noctem,* Towards mid-night.
    - *Media nox.* Mid-night.
    - *De media nocte.* A little after mid-night.
    - *Gallicinium.* Cock-crowing.
    - *Conticinium.* All the time from cock-crowing to the breake of day.

The day and night againe were each of them divided into *primam, secundam, tertiam, & quartam vigiliam,* every watch containing three houres. The first of the night began at sixe of the clocke in the evening, and the fourth ended at six of the clock in the morning. [g] These watches were distinguished by seuerall notes and sounds of Cornets, or Trumpets, that by the distinction and diuersitie thereof, it might easily be knowne what watch was sounded. Moreouer we must vnderstand that the *Romans,* vpon a superstitious conceit, & obseruation of misfortunes and evill events falling out on some daies, and more happy successe vpon others, haue called the former sort of daies *Atros dies,* or *dies postriduanos, & Ægyptiacos: ἀποφράδας Graci nuncupant, perinde ac si nefandos dicas.* The reason why they were called *Postriduani* was because they thought *Dies postridie Calendas, Nonas, & Idus id est,* The next day after the Calends, Nones, & Ides, of euery month to be vnfortunate; and the latter sort they called

[g] Alex. Gen. lib. 1. cap. 12.

Albos

Albos dies,[h] borrowing the names from the *Scythians*, who vsed to chalk out the fortunate daies in their Kalenders with white characters, whence *Horace* saith,

Cressa non careat pulchra dies notâ.

Other-some, as their vnfortunate and vnluckie daies, were noted with a coale or black character, according to that,

Nigro carbone notatus.

Againe their Kalender distinguished some daies for Holy-daies, which they called *Dies festos*, festiuall daies, or *dies Feriatos, & Ferias*, Holy-daies, [i] because they did vpon such daies *Ferire victimas, id est*, offer vp sacrifices. Others were distinguished for working daies, which they called *Profestos quasi procul à festis.* The third distinction was of halfe holy-daies, which *ab intercidendo*, they called *Dies interciſos*, as it were daies cut asunder: the one part of them being allotted for worldly businesses, the other for holy and religious exercises.[k] These *feriæ* were either *privatæ*, and so they belonged sometime to whole families, as *Familiæ Claudiæ*, *Æmiliæ*, *Iuliæ, &c.* sometimes to private persons, as every one his birth day, particular expiations, &c. or else they were *Publicæ*, such as the whole common-wealth did obserue: and they were of two sorts, the one called *Anniversariæ*, which were alwaies to be kept on a certaine day, [l] and thereupon they were called *feriæ statiuæ*; the other *conceptivæ*, which were arbitrary, and solemnised vpon such daies as the Magistrats and Priests thought most expedient, whereof the *Latinæ Feriæ* were chiefe: which *Latinæ Feriæ* were kept on mount *Albane* to *Iupiter Latiar*, for the preseruation of all the Latine people in league and confederacie with the *Romanes*, and were solemnised in memorie of the truce between those two nations. Those *Feriæ* which were called[m] *Imperativæ*, and[n] *Indictivæ*, because the *Consul, Prætor*, or chiefe Pontifie, according to their pleasure *imperabant, & indicebant has, id est*, commanded them, may in my opinion bee contained vnder that member of *Feriæ conceptivæ*, in respect of the vncertainty

b Vid. Erasm. Adag. vnione signare.

i Ascensius in epist. 3. illust. vir. lib. 2.

k Rosin. ant. lib. 4. c. 3.

l Alex. Genial. dier. lib. 5. c. 7.

m Alex. Genial. dier. lib. 5. c. 7.

n Serv. Æneid. lib. 11.

certainetie of them. Another distinction of daies is found in the Roman Kalender, to haue beene in *Fastos*, whole court or leet-daies; *Ex parte Fastos*, Halfe court daies; *Ne fastos*, Non-leet daies; though this word *Nefastus* be often expoũded vnluckie, as in that of [o] *Horace* touching the tree, *Ille & nefasto te posuit die*, that is, Hee planted thee in an vnhappy time. These daies were so called *à fando*, from speaking; because vpon those daies which were *Fasti*, the *Prætor*, or Lo. chiefe Iustice might lawfully keep court and administer iustice, which was not done without the speaking of these three words, *Do, Dico*, and *Addico*; [p] *Dabat actionem; dicebat ius*; *Addicebat tam res, quàm homines*. Where by the way we must note, that sometimes these court daies were also called *dies comitiales*, because that [q] vpon every such day which was noted in the Kalender for a comitiall day, if the publique assemblies were not held, it was lawfull to keep court: whence not only *comitialis dies* doth signifie a law day, but *comitialis homo* also doth signifie a wrangler in the law, or a litigious person.

[o] Carminum lib. 2. Ode 13.

[p] Ioach. Camerar. pro Flacco.

[q] Bersman. in suis annot. in Rom. Calend. ad finem Ov. Fast.

Cap. 2.

De comitijs, idq; Calatis præcipue, de Rogationibus, & antiquâ scribendi ratione.

EVery assembly of all the *Romane* people being called together by a lawfull magistrate to determine any matter by way of giuing voices, is *à coeundo* tearmed *Comitia* simply, without the adiection of any other word; or *Comitia calata*, that is, assemblies called together, from καλέω or the obsolete latine verbe *calo*, which signifieth to call: though afterward those assemblies onely, which were held either for the inauguring of some pontify, some *Augur*, some *Flamen*, or him that was called *Rex sacrorum*, or for the making of their wills & testaments, were called *Calata comitia*.

Whence

Whence the will that was made in these assemblies was called *Testamentum calatis comitijs.* This kind of assembly is sometimes called *comitia* [a] *pontificia*, and *comitia sacerdotum*, in that sense as others are called *Consularia*, or *Ædilitia comitia*; namely because the pontifies in these, as the *Consuls*, and *Ædiles plebis* in the others, were chosen. There followeth three other kinds of assemblies: for either the people did assemble themselues by parishes, called *Curiæ*; or by hundredths, called *Centuriæ*; or by wards, called *Tribus*. The first sort of assemblies they called *comitia Curiata*, the second *comitia Centuriata*, the last *comitia Tributa*. [b] Where by the way we must note, that that thing which was determined by the *maior* part in any parish, hundreth, or ward, was said to be determined by that whole parish, hundreth, or ward, and that which was determined by the *maior* part of parishes, hundreths, or wards, was said to be approued *comitiis Curiatis, Centuriatis, vel tributis*. Secondly we must note, that neither children vntill they were seuenteene yeares old, nor old men, after the sixtieth yeare of their age, were allowed to suffrage in these assemblies, whence arose that adage *Sexagenarij de ponte deijciendi*: [c] & old men were hence called *Depontani*, for the explication of which see before. Here before wee speake of those three seuerall kindes of assemblies, wee will consider the manner of their proceedings in propounding cases vnto the assemblies. [d] The custome was at first, that the *Romans* should bestow their suffrages *Viua voce*, but afterward that every one might with freer liberty giue his voice, they commanded certain wooden tables, wherein the names of those that stood for offices were written, to be carried about, euery suffrager receiuing so many tables, as there were suitors: then did the people giue back that table with whom they would suffrage. But if a law were to be enacted, then every suffrager receaued two tables, in the one of which were written these two great letters V.R; in the other was written a great *Roman* A. Those who deliuered these tables vnto the

[a] Ioan. Tisslinus in orat. pro Cœlio.

[b] Sigon. de iure Rom. lib. 1. cap. 17.

[c] *Pars putat vt ferrent iuuenes suffragia soli: Pontibus infirmos præcipitasse senes.* Ov. Fast.

[d] Philip. Beroaldus in orat. Phil. 11.

the people; did ſtād at the lower end of thoſe bridges (which were erected vp for the ſuffrages to aſcend vnto the *ovilia*) whence they were called *à diribendo, id eſt*, from diſtributing *Diribitores*. At the other end of the bridges were placed certaine cheſts or little coffers, into which the ſuffragers which did approue the law did caſt in the firſt table; thoſe that diſliked it, did caſt in the ſecond: for by thoſe two letters V. R. which were written in the firſt, is meant *Vti Rogas*. i. Be it as thou haſt asked, this word *fiat* being vnderſtood. By A in the ſecond table was meant *Antiquo, id eſt*, I forbid it, the word ſignifying as much as *antiquū volo*; I like the old law, I loue no innovations. The tables being thus caſt into the cheſts, certaine men, appointed for that purpoſe in manner of Scru-
[c] Plin. l. 33. c. 2. tators (they called them *Cuſtodes*, & ſometimes [c] *Nongenti*) did take the tables out of the cheſts, and ſo number the voices by making ſo many points or pricks in a void table, as they found tables alike: which kind of accoūting occaſioned theſe and the like phraſes; *Suffragiorum puncta non tulit ſeptem*, and *Omne tulit punctum*; where *punctum* is vſed for *ſuffragium*. The voices being thus numbred, it was pronounced by the common crier what was decreed. Becauſe the vſe of thoſe tables is now growne quite out of vſe, I ſhall make bold to inſert that, which with much labour I haue collected out of ſeuerall autors touching theſe tables. It is certain that a long time the vſe of paper was not knowne, whence men were wont to write ſometimes vpon the inward rindes of trees, called in Latine *Libri* (ſo that to this day wee call our bookes *Libri*, becauſe in old time they were made of thoſe rindes of trees) ſometimes they did write in great leaues made of that ruſh *Papyrus*, growing in Ægypt, from which we haue deriued our Engliſh word Paper, & the latin word *Papyrus*, now ſignifying our writing paper. Shortly after the inventiō of this Ægyptian paper, *Ptolomy* the king of Ægypt
[a] Plin. lib. 13. cap. 11. reſtrained the common making thereof, becauſe of the great emulation betweene him and *Eumenes* King of *Pergamus* concer-

concerning their libraries; not long after therefore *Eumenes* hauing found out the making of parchment, he made vse thereof in writing, and called it from the place *Pergamena*. At this time did the *Romans* vse to write in tables of wood, couered with wax, called in latine *cerata tabulæ*. They wrote their wills and testaments in tables, [b] *Hinc secundum & contra tabulas bonorum possessio*; The possession of goods either according or against the testator his will. Because of the wax wherewith these tables were couered, *cera* is often vsed in the same sense, as *Hæredes primæ ceræ, id est, primæ tabulæ, & in primo gradu instituti*; by which words I thinke are vnderstood such heires as [c] *Alexander* calleth *Hæredes ex toto asse*, that is, heires to the maine inheritance, opposing them to those which did receiue only legacies, whom he calleth there, *Hæredes in imâ cerâ, secundos hæredes, & legatarios.* [d] *Syluius* not vpon improbable grounds doth thinke, that *Tully* doth vnderstand by *Hæredes secundi*, such heires as were nominated to succeede the chiefe heire or heires if they died. They wrote their accounts in tables; hence *tabulæ accepti & expensi*, signifying reckoning bookes. These count-books were of [e] two sorts, some monthly without order or method called *Aduersaria. Quòd aduersa parte etiam scriptis implerentur.* Others perpetuall, being the transcript of the forme, called *Tabula accepti & expensi.* They wrote their statutes also in tables, whence *Tabulæ publicæ*, are englished statute books, or rather books of record. Those writings or instruments which the Senate or Emperour caused to be hanged vp in the market place, to release and discharge any banckrupt from paying his debts, they termed [f] *tabulas nouas*, we may english them letters of protection. They wrote their inventories of goods set at sale in tables, calling them *tabulas auctionarias*: yea they indited their epistles and common letters in tables; in somuch that *tabellæ* are expounded missiue letters, and *tabellarius* which properly signifieth a carrier of tables, is now vsed to signify a letter carrier; yet they [g] sometimes

[b] P. Pellitar. in oratione pro A. Cæcinna.

[c] Alex. Gen. dier. l. 1. c. 1.

[d] Fr. Siluius. pro Cluentio.

[e] Cœl. Rhod. lib. 12. cap. 21.

[f] Fr. Sylv. in orat. Catalin.

[g] Suidas in voce μύλαβρος.

times wrought also in plates of lead, εἰς ἐλάσμὰς μολύβδου γράφοντες; And thus we may vnderstand what [h] *Suetonius* meaneth by *charta plumbea*: concerning all these, *Pliny* writeth excellently: before the vse and making of paper was inuented, men wrote at first in palme tree leaues, afterwards in the rindes of certaine trees, afterward publike monuments were recorded in volumes or roles of lead, at last priuate matters on fine linnen or wax. [k] The manner how they sealed their letters was thus: they did binde another table vnto that wherein the inditment was, with some strong thread, sealing the knot of that thread with wax, whence *Cicero* saith *Linum incidimus*, that is, we opened the letters, hence also is that of [l] *Plautus*, *Cedo tu ceram ac linum: age, obliga, obsigna citò*, [m] The impression was commonly their owne image, or the image of some of their ancestors. The matter on which the impression was made, was not alwaies waxe, but sometimes a kinde of tempered chaulke, which occasioned that phrase of Tullies, [m] *Signum ille animaduertit in cretula.* [n] Lastly they wrote their books in tables, whence from them we do at this day call our books *codices à caudicibus*, *caudex* signifying properly the truncke or stocke of a tree, whereof these tables or books were made. We must note withall that they wrote not with inke or quille, but with an instrument of steele; or yron, hauing [o] a sharp point at the one end, and being broad, yet keene and well edged at the other, with the sharpe point they did write what they pleased, with the broad end they did scrape out what they had written: Whence *Stylum inuertere* is to say and vnsay a thing, to turne his punch the wrong end downeward, as it were to scrape out that which one had formerly written. The Romans did afterward vse insteed thereof, an instrument made of bone, prohibiting the vse of yron ones, as [p] *Isidore* noteth by that law, *Cerã foro ne cœdito.* And as we vse this word *Manus* to signify the writing it selfe, according to that of [q] Tully, *cognouit manum, & signum suum*: so

[h] Sueton. Nero. 10.
[i] Plin. lib. 13. cap. 11.
[k] Fr. Sylv. in orat. Catil. 3.
[l] Iust. Lips. epistol. inst. c. 4.
[m] Cic. 4. in Verrem.
[n] P. Pellitar. in orat. pro A. Cæcinna.
[o] Vid. Erasm. Adag.
[p] Herman. Hugo. de. prima scrib. orig. cap. 9.
[q] Cic. orat. cont. Catil.

so in the like sense we vse this word *Stylus*, to signifie the peculiar tenure or straine of phrase, which any man obserueth in the composing of an oration, epistle, or such like; in which sense Tully vseth it, as the antitheton to *gladius*, in that speech of his, *Cedat forum castris, otium militiæ, stylus gladio*, though in another place he vseth it to signify, if not a sword, yet a pocket dagger, as *Etsi meus ille stylus fuisset*; [s] in which place *Stylus* doth signifie as much as *pugio*. And here seeing we are fallen into the manner and custome of auncient writings, it will not be amisse to note that vsually at the end of their books they printed a little marke, which they tearmed *Coronis*. Those that interpret *Aristophanes* describe that marke thus, saying that it is [t] *Linea breuis ab inferiore parte flexa*. All agree in this, that it was some common and known dash, vsually subioyned to the end of books: [u] others are of opinion that the ancient *Romans* did in like manner adorne the frontispice, or beginning of their books, with the picture of an halfe moone, which obseruation giueth light not only to that adage ἀπὸ τῆς ἀρχῆς μέχρις τῆς κορωνίδος, From the beginning to the end. But also that of *Martial lib. 10.*

Si nimius videor, serâq; coronide longus
Esse liber, legito pauca, libellus ero.

And of *Ovid.*

Candida nec nigra cornua fronte geras.

For in *Turnebus* his iudgement those halfe moones prefixed, were called *Cornua*. Howsoeuer this may bee true touching the dash, or character at the ende of a booke, and that it was tearmed *Coronis*: yet I doubt whether any such halfe moone was vsually prefixed in the beginning of bookes, or whether such an halfe moone were denoted by the Latine word *Cornu*: more probable is his opinion,* who treating of this very matter, saith, that in old time a whole booke was written in one continued page, neither did they then cut their books into many leaues, and binde them vp in that manner as we doe; but that one entire page in which alone the whole book was written

[s] Cic. orat. pro Muræn. [t] Mic. Toxita. in orat. Phil. 2.

[t] Cœl. Rhod. lib. 15. cap. 20.

[u] Turn. adv. lib. 22. cap. 10.

* Pier. hierog. lib. 34

written, was wont to be roled vp vpon a ſtaffe faſtned at the end thereof, in manner as many large mappesare now adaies with vs. Hence it is *à voluendo*, that we call our books, *Volumina*, Volumes: this ſtaffe on which the booke is roled, was called *Vmbilicus*, the ſame word ſignifieth a nauill, which becauſe it is the middle part, and as it were the centre of a mans body, hence approved authors vſe the word to ſignifie the middle of any thing; and happily that name was firſt giuen this ſtaffe, becauſe when the booke was roled vp, the ſtaffe was the middle thereof: howſoeuer becauſe it was faſtned alwaies at the end of the page, hence *Vmbilicus*, eſpecially when it is applied to a booke, ſignifieth the end thereof: as *Horace*, *Ad vmbilicum ducere*; to bring to an end: the two pummels, or ends of this ſtaffe, which did iutt out & appeare on each ſide of the volume, they called *Cornua*; & they were wont to be tipt with ſiluer, or gold, or otherwiſe adorned. The title which was the beginning of euery booke, was tearmed *frons*. This ſeemeth more probable then that of *Turnebus* his, and giueth greater light to that of *Ouid*,

Candida nec nigra cornua fronte geras.

Now that we may proceed to the matter whence we haue digreſſed, it remaineth that we ſhould declare the manner how they enacted their lawes. All the *Romans*, though free Cittizens had not power and authority of preferring the lawe, but onely eight of their Magiſtrats, which they called *Magiſtratus maiores*: namely the *Prator*, the *Conſuls*, the *Dictator*, the *Interrex*, the *Decemviri*, the *Military Tribunes*, the *Kings*, & the *triumviri*, vnto theſe eight was added one of thoſe whō they entitled *Magiſtratus minores*, namely the *Tribunus plebis*. If any of theſe Magiſtrats thought it fit to preferre a law, then did hee firſt write it downe at home, and conſult with ſome lawyer, whether or no it might bee for the good of the Commonwealth, whether it ſhould not weaken any former law, or whether it was not formerly included in ſome other law, &c. Theſe and many other cautions were to be conſi-

dered

dered, before it was preferred, yea some would haue the approbation of the whole Senate after the aduise of their lawyer, though diuers times that hath beene omitted. And the lawyer alone allowing it, the law was hanged vp publikely in the market place for the space of three market daies, which kinde of publishing the law was tearmed, *Legis promulgatio, quasi provulgatio*, during which time of promulgation, reasons were alleaged *pro & con* by the spectators: and all the people had so much time to consult of the conueniency thereof, and euery one vpon iust reason, had free liberty to admonish him that preferred the law, either to amend it, or to surcease the proposall. After the third Market-day (for vnlesse it were vpon an extraordinary occasion, no assembly might be called vpon a market-day, because of the country folkes businesses, they also hauing freedome of suffraging) the Magistrate did conuocate, the people to that place where the law was to be proposed: there the Towne-clarke, or Notary reading the law, the common cryer proclaimed it, then did he which promulged it, make an Oration vnto the people, perswading them that it might passe. Sometimes others of his friends would second him with Orations in his behalfe, as likewise others that disliked it, would by orations dissuade the people, shewing the inconueniency thereof. After the orations had been ended, an vrne or pitcher was brought vnto certaine Priests there present, into which were cast the names of the tribes, if the *Comitia* were *Tributa*; or of the centuries, if they were *centuriata*; or of the parishes, if *curiata*: then *sortibus æquatis*, that is, the lots being shakē together they drew their lotts; and that tribe or centurie whose name was first drawne, was called *Tribus, vel centuria prærogativa, à prærogando*, because they were first asked their voices. *Turnebus*, interpreting that of *Tully*, *Maiores voluerunt prærogatiuam omen esse iustorum comitiorum*, interprets it; That the *Romanes* did so depend vpon the prerogatiue Centurie, that they would alwaies declare him Consul that was cho-

sen by them. *Turneb. adv. l 5, c. 23.* That *Curia* vpon which the first lot fell, was called [q] *Principium*, because that *Curia* did first suffrage Those Tribes vpon whom the other lottes fell; namely the second, third, fourth, &c. were tearmed *Tribus Iure vocatæ*. From this distinction it is, that such a man as hath the voices of the prerogatiue Tribe, or Centurie, is said to haue [r] *Omen prærogatiuum*: which good fortune whosoeuer could attaine vnto, was in great hope of obtaining the other voices of the *Iure vocatæ*; for they neuer, or very seldome would swarue from the determination of the prerogatiue Tribe, or Centurie. Whiles the people were busie in their lotterie, in the meane time if any [s] Tribune of the Commons woulp *intercedere*, that is, forbid the proceeding, he might be heard, and the whole assembly therevpon should bee dismissed: likewise they were dismissed if either he which first promulged the law did alter his opinion, or if the *Consul* commanded supplications to be offered vp in the behalfe of their Emperour, or any of those holy daies called *Feriæ Latinæ, vel Imperatoriæ* to bee obserued vpon that day; or if any of the people assembled were taken with the falling sickneſſe (by reason whereof that disease is called by the [t] Physitians at this day *Morbus comitialis*:) Lastly, the assemblies were dissolued by reason of the southsayings, which kinde of dissolution was caused either by the ciuill Magistrate his obseruing of signes and tokens in the heauen, and that was called *Spectio*, and sometimes *de cælo obseruatio*; the very act of this obseruation, though no vnlucky token did appeare dissolued the assembly: or else it was caused by the *Augures*, and ciuill magistrate promiscuously, whensoeuer any ciuill token was seene or heard, either by the Magistrate, or *Augur* (amongst which thunder was alwaies counted the vnluckyest) at which time the assembles were in like manner to bee dissolued: this manner of dissolution was tearmed *obnunciatio*, or *Nunciatio*. *Obnunciabat, qui contra auspicia aliqui fieri nunciabat.* Both these kindes are easily to be collected out of

[q] Rosin. ant. lib. 6. cap. 7.

[r] Cic. pro Muræn.

[s] Huber. in lib. 1. Cic. ep. fam. 2.

[t] Fuchsii inst. medicin. l. 3. sect. 1.

[u] Stadius in Flor. l. 3. c. 7.

of that speech in *Tully*,[x] *Nos Augures nunciationem solam habemus, Consules & reliqui magistratus etiam spectionem.* Here we may fitly in way of conclusion vnto this tract, adde a iust difference to be obserued betweene these phrases, *Promulgare, Rogare: Ferre, & Figere legem. Promulgare legem*, was to hang vp a law not yet asked, to the publike view of the people, to be examined by them touching the conueniency thereof. *Rogare legem* was to vse a certaine oration vnto the people, to perswade the conueniency of the law, which Oration because it began with this forme of words, *Velitis, iubeatisne Quirites?* that is, O yee *Romans*, is it your will and pleasure that this law shall passe or no? Hence was it tearmed *legis rogatio. Ferre legem*, was when the law had beene approued of by the people, then to write it downe vpon record, and so to lay it vp into the treasure-house;[y] *Cùm approbata fuisset lex, in aes incidebatur, & in ærario condebatur, & tunc demum lata dicebatur.* Lastly *Figere legem*, was to publish the law after it had beene approued and recorded,[z] by hanging it vp in tables of brasse in their market-places, or at their church dores: Hence it is that wee vse [a] *Tabulum figere* in the same sense, namely to enact or establish a law, and *Refigere legem*, to disproue or cancell a lawe. [b] And that which was determined *Comitijs curiatis*, was tearmed *lex curiata*; that which was *Comitiis centuriatis*, *lex centuriata*, that which was *Comitiis tributis*, was not called a lawe, but *Plebiscitum.*

x Cic. orat. Philip. 2.

y Fr. Maturantius in Phil. 1.

z Corn. Tacit. annal. lib. 11.

a Fr. Matur. in Philip. 12.

b Sig. de Iure. prou. lib. 3. c. 1.

CAP. 3.

De Comitiis Curiatis.

COmitia *Curiata* were those, wherein the *Romane* people being diuided into thirty parishes did giue their suffrages: They were so called from *Curia* signifying a parish. And vntill *Seruius Hostilius* his time, who did first institute the *comitia centuriata*, all things which were determined

mined by the suffrages of the people, were determined by these *curiata comitia*: But after the other two sorts of assemblies had beene established, these *curiata* were vsed only either for the enacting of some particular lawes, or for the creating of some certaine priests, called *Flamines*. For the better vnderstanding hereof we must remember that though at first these thirty parishes were parts of the three Tribes (each tribe being diuided into ten parishes,) yet in processe of time the increase of the *Romane* people was such, that a great part of the *Romane* fields were filled with buildings and places of habitation, in somuch that the tribes of the *Romans* were encreased to thirty fiue: but the parishes (because none that dwelt out of the city were tied to the rites and ceremonies of the *Romane* religion) did not encrease, so that the parishes did not alwaies remaine parts of the tribes. Hence it followeth that all the *Romans* had not power to suffrage in these assemblies, but those alone, who dwelt within the citty: for no other could be of any parish. The place where these assemblies were held, was the great hall of Iustice, called from these assemblies, *Comitium*. Before these assemblies were held, it was required that some lawfull magistrate for some competent time before hand should solemly proclaime them, and the thirty seriants (each parish hauing for that purpose his seriant) should call the people together; as likewise three *Augures*, or at least one should be present to assure them by their obseruations, either of the favour, or displeasure of the Gods. Vpon these premises the matter was proposed vnto the people, who if they liked it, then they proceeded vnto their election; if otherwise they disliked it, then did the *Tribunus plebis intercedere*, that is, forbid their proceedings: wherevpon their assemblies were presently dissolued.

CAP.

Cap. 4.

De Comitijs Centuriatis.

AS those former assemblies were called *Curiata à curijs*, so were these called *Centuriata à Centurijs*. *Servius Tullius* caused generall valuation of every citizens estate throughout *Rome*, to be taken vpon record, together with their age: and according to their estates & age, he diuided the *Romans* into six great armies, or bands, which he called *Classes*; though in truth there were but fiue of speciall note: the sixt contained none but the poorer sort, and those of no worth or esteeme. The valuation of those in the first *Classis* was not vnder two hundred pounds, and they alone by way of excellency were tearmed *Classici*: and hence figuratiuely are our best and worthiest authors, called *Classici scriptores*, Classicall authors. [d] All the others, though they were enrolled in the second, third, or any other *Classis*, yet were they said to be *Infra classem*. The valuation of the second band was not vnder seauen score pounds. The valuation of the third was not so little as an hundred pounds: of the fourth not lesse then forty pounds; of the fift not lesse then twentie fiue pounds. The sixt contained the poorer sort, whom *Horace* calleth *Tenuis census homines*, men of small substance; and also they were called *Proletarij, à munere officioq; prolis edendæ*, as if the only good that they did to the common weal, were in begetting of children: and sometimes they were called *Capite-censi*, that is such as paid very little or nothing at all towards subsidies, but only they were registred amõg the citizens, as it appeareth by [e] *Sigonius*. These six great bands or armies were subdiuided into hundreths, called in Latine *Centuriæ*. The first *Classis* contained foure-score centuries of foot men, and eighteene of horsemen: the second contained twentie centuries of footmen, and two of

[d] A. Gel. lib. 7. cap. 13.

[e] Sig. de iure Rom. lib. 1. c. 4.

workmen, which followed after to make military engins & weapons: the third also, as likewise the fourth contained 20 centuries of footmen, but to the fourth were added two other centuries of Trumpeters, Drummers, & such like, who vpon iust occasion did *Classicum canere*, sound the alarme, & vpon iust occasion did againe *receptui canere*, sound the retrait: the fifth *Classis* contained thirtie centuries of footmen: the sixt, or last *Classes* contained one centurie: so that in all the six *Classis* were contained one hundred fourescore and thirteene centuries. Where we must note that all the centuries of footmen did consist the one halfe in every *Classis* of the younger sort, who were to make warre abroad vpon the enimies; the other halfe of old men, who remained at home for the safety of the citty. All that hath beene hitherto spokē of these *Centuriata comitia*, may be collected out of *Sigonius* in the place aboue quoted. The chiefe commander of euery cēturie was called *Centurio*; the rod, or tip-staffe, wherewith he did strike his souldiers to keepe them in aray, was called by *Pliny*, *Centurionum vitis*. So then we may perceaue, that those *Centuriata comitia* were those, wherin the people did giue their voices by centuries, or hundreds. Now the centuries did not consist of those alone which had their places of habitation at *Rome*, but of certaine *Municipall* states also, & such colonies or other states, that could [d] *Plenum civitatis ius cum iure suffragij adipisci*. [e] Now the custome in old time was, that all these centuries should march in their armour after the Magistrate which assembled them, into the *Campus Martius*, there to giue their voices. But this custome continued not long, for thereby they did disarme the citie, & giue their enimies (if any should assaile them in time of their assemblies) the greater advantage: for their greater security thereof, they appointed a flagge to be hanged out vpon the mount *Ianiculus*, some few armed men standing there in watch and ward for the safeguard of the citty: and when the assembly was to be dissolued, then did the watch depart, and the

d Rosin. ant. lib. 6. cap. 10.
e Rosin. antiq. Rom. l. 6. c. 16.

the flag was taken down: neither could any thing after that be determined; but if they continued their assemblies, then did they proceed to the giuing of their voices, in old time thus. Those centuries of the first *Classis* being the wealthier had the prerogatiue of suffraging first, and because this first *Classis* contained more centuries then all the rest, therefore, if they could agree among themselues, the other centuries were neuer asked their voices. This kind of suffraging being somewhat partiall, in as much as the richer & wealthier being placed in the first *Classis*, did ouersway the elections against the poorer sort of people; thence did the after ages appoint that that century should haue the prerogatiue of suffaging first, vpon whom the lot fel. The other centuries were all called [f] *Centuriæ Iurevocatæ*, & did giue their voices not by lots (as the *Tribus Iurevocata* did) but the elder and wealthier centuries did suffrage next after the prerogatiue century accordingly as their place required.

f Rosin. antiq. Rom. l. 6. c. 20.

Cap. 5.

De Comitijs Tributis.

FOR the better vnderstanding of these assemblies by Tribes, or wardes, it will be needful first to learne, that this word *Tribus* in this place doth signifie a certaine region, ward, or locall place of the citty, or the fields belonging therevnto according to that, [g] *Tributa comitia erant cùm ex regionibus & locis suffragabantur*. It was so called either *à tributo dando*, euery seuerall region or quarter paying such a tribute; or *quia primò tres tantùm fuerunt*, the whole citie being at first diuided only into three regions, or wards, each nationall tribe hauing his seuerall region or local tribe to dwell in. The first national tribe called *Ramnenses*, did inhabit the mount *Palatine*, and the mount *Cœlius*, and those two hills made the first locall tribe. The second nationall

g A. Gel. l. 15. cap. 27.

tribe called *Tatienses*, did inhabit the *Capitoll*, and the *Quirinall* mountaine, which two mountaines made the second locall tribe. The third nationall tribe did inhabite the plaine betweene the *Capitoll* and the *Palatine* hill, and that plaine was called the third locall tribe. Of these tribes more is spoken in the first diuision of the Roman people. Only here we must note thus much, that in processe of time after the cittie was enlarged, and the number of Roman citizens increased, these locall tribes were also augmented, so that they amounted at the last to the number of 35. some of them being called *Vrbanæ*, others *Rusticæ*; [h] *Vrbanæ ab vrbis regionibus, Rusticæ ab agri partibus erant nuncupatæ.* And of these two sorts the *Tribus rusticæ* were accoũted the more honorable. Moreouer we must remember, that a man might be reputed of this or that tribe, although he had no place or habitation therein. Concerning the place where these *Tributa comitia* were had, sometimes they fell out to be in the *Campus Martius*; sometimes in their great hall of iustice called *Comitium*; sometimes in the *Capitoll*; many times in other places, according to the discretion of the Magistrate which caused these assemblies.

h Sig. de iure Rom. l. 1. c. 3.

Cap. 6.

De Candidatis.

IT shall not be impertinent to annex some necessary obseruations touching the *Romane* petitors or suiters for bearing office: where we wil obserue these three phrases *ambire magistratum, inire magistratum*, and *abire magistratu.* The first signifieth, to sue for an office; the second, to enter into the office; the third to depart out of the office. Again the differẽce of these phrases, *Conficere legitima suffragia, & Explere suffragia.* [i] The first signifieth to haue so many voices as the law doth require. The second signifieth to haue more

i Rosin. ant. Rom. l. 2. c. 6.

voices

voices then any other competitour, but not so many as the law requireth.

These persons were tearmed *Candidati*, *à togâ candidâ*, from the white gowne which they did weare, as appeareth more at large, where we haue spoken *De Romana roga* That they might the easier procure the good will of the people, these foure things were expected from them. First, *Nomenclatio*, the saluting of euery citizen by his name; for the better discharge of which, they had a certaine follower, which should by way of prompting, tell euery citizens name as he passed by, and hence this prompter was sometimes called [a] *Nomenclator*, which word doth properly signifie a cõmon crier in a court of Iustice, such as call men to their appearance, whence they had their name from *Nomen & calo*, an old latin word to call; sometimes [b] *Monitor*; sometimes *Farrator*, *ab infarciendo in aures*. Secondly, *Blanditia*, that is, a friendly compellation by the addition of some complement all name, as well met friend, brother, father, &c. Thirdly, *Assiduitas*, that is, an hot canuasing, or soliciting men without intermission. Lastly, *Benignitas*, a bountifull, or liberall largesse, or dole of mony called *Congiarium*, from the measure *Congius* containing a gallon, because their [l] dole was at the first made of oyle or wine distributed in those measures. Howbeit κατὰχρησιν any dole, gift, or largesse in mony, or otherwise is called *congiarium*. The distributers of this dole were called [m] *divisores* & [n] *sequestres*, although sometimes *sequester* signified a briber or corrupter of a Iudge. Like wise their bounty or liberality consisted in providing great dinners, and exhibiting magnificent shews vnto the people, &c. Where we must obserue, that as often as this largesse is called *Largitio*, it is taken in the worst sense, namely, for an vnlawfull bribing of the suffragers, vnder a pretended largesse. [o] *Benignitas liberalitatem magis significat quàm largitionem.*

[k] Rosin. ant. Rom. l. 7. c. 8.

[a] Cic. orat. pro L. Mur. *Mercemur seruum qui dicat nomina, &c.* Hor. l. 1. ep. 6.

[b] Cic. loco. supra citato.

[l] G. Trapez. in Phil. 2.

[m] Sig. de iud. lib. 2. c. 19.

[n] Barth. Latomus in orat. pro M. Cœlio.

[o] Cic. orat. L. Muræn.

Cap. 7.

De Romanis vestibus.

WEE may obserue in reading old autors, that as well the *Romans* as the *Grecians* had diuerse distinct habits, or outward vestiments. The *Grecians* had their mantle called *Pallium*; the *Romans* their gowne called *Toga*, and by this different kinde of garment the one was so certainely distinguished from the other, that this word *Togatus* was often vsed to signifie a *Roman*, and *Palliatus*, a *Grecian*. [f] *Togati pro Romanis dicti, vt Palliati pro Græcis.* Before we proceed, wee will first obserue what this *Toga* was, and then how many sorts there were. [g] *Toga à tegendo dicta est.* It was made commonly of woll, but according to the worth and dignitie of the person, sometimes of courser, sometimes of finer woll. As we may collect by that of *Horace*,

---Mihi sit toga, quæ defendere frigus
Quamvis crassa queat.----

We must note with *Toxita*, that no women of any credit did weare the *Roman* gowne, but insteed thereof did vse a garment called *stola* from στέλλω signifying *demitto*, *quòd vsq; ad talos demitteretur*: whence old Poets, when they would point out vnto vs an infamous or lewd strumpet, they would tearme her [i] *Mulierem togatam.* [k] This *toga* sometimes was worne open and vntuckt; then was it called *Toga aperta*: other times it was tuckt vp, and then it was called *toga præcincta.* This cincture or girding vp of the gowne was according to [l] *Sigonius* threefold; *Cinctura laxior*, *Astrictior*, and *Cinctus Gabinus. Cinctura laxior*, or the loose kinde of girding was such, that notwithstanding the tucke, yet the taile trailed on the ground. *Cinctura astrictior* the close kinde of girding was such, that after the gowne had beene lapped or

f Sigon. de iudic. l. 3. c. 19.
g Mic. Toxita in orat. Philippic. 2.
h Mic. Toxita ib.
i Rosin. ant. Rom.
k Sig. de iud. lib. 3. cap. 19.
l Sig. ib.

or tucked vp, it should not reach so far as the feet. The first kind of these cinctures did argue a remisse, soft, and effeminate minde; the latter did signifie the promptnesse or readinesse of the person; [m] *Vnde, Alte præcincti pro expeditis dicti sunt.* Thirdly, *Cinctus Gabinus* was a warlike kind of girding not so that the whole gowne should be tucked vp about the middle, but that it being cast quite backward, the partie should gird himselfe with one skirt thereof. [n] This kinde of girding was so called from a certaine citty of *Campania* called *Gabij*, because vpon a time the inhabitants of this cittie being at sacrifice; were set vpon by their enimies; at which time they casting their gownes behind them, and girding one lappet or skirt about them, went immediatly to warre, euen from the altars, and got the conquest.[o] In memory of which ever after, the *Consul* when he should proclaime war, girded himselfe in like manner. Neither had the *Consul* alone a peculiar garment when he proclaimed war, but euery souldier in time of warre did weare a different kinde of garment from the gowne, which they called *Sagum*: we may english a souldiers coat. Whence *Tully* vseth this phrase *ad saga ire*; which *Erasmus* hath paralleld with this, *Ad certamen se accingere*, to buckle for warre. Insomuch that *Cedant saga togæ*, is *æquivalent* to that of the Oratours. *Cedant arma togæ*. Touching the difference of the *Romane* gownes, I finde them distinguished by [p] *Sigonius* according as followeth; in *Togam Puram, Candidam, Pullam, Prætextam, Paludamentum, Picatam, Trabeam. Toga pura* was the common ordinary gowne worne by new married women, and, *Tanaquil prima texuit rectam tunicam, qua simul cum toga pura tyrones induuntur novæq; nuptæ. Plin. lib. 8 cap. 48.* and by priuate men at mans estate, about the sixteenth yeare of their age, at which time they were said, *Excedere ex ephebis*, that is, to bee past striplings. Notwithstanding the sixteenth yeare was not alwaies strictly without exception obserued; [q] for *M. Aurelius* was permitted to weare this gowne being but fifteene yeares old;

[m] Sig. ibid.

[n] Serv. Æneid lib. 7.

[o] Alex. Genealogiæ dier. l. 1. c. 14.

[p] Sig. de iud. 3. cap. 19.

[q] Rosin. antiq. lib. 5. cap. 32.

old; and *Caligula* did not weare it till the nineteenth yeare of his age. This kinde of gowne besides that it was called *Pura* it was also sometimes called *virilis*, sometimes *libera*. It was called *pura* in respect of its pure white colour, being free frō all admixtures of purple, or any other colour and therefore some haue tearmed it ὁλόλευκον, all white, others ἀπόρφυρον, void of purple. It was called *virilis*, because it was giuen to striplings now growing to mans estate. Whence we vse to say of a stripling past 16 yeares of his age, *virilem togam sumpsit*, he is now become a man. Lastly, it was called *libera*, [r] because then they did receaue some beginning of freedome as being about that time freed from their schoole-masters, & ouerseers. [s] This kind of gown was not made open but sowed downe to the bottome, and also it was made without sleeues, so that if at any time they had occasion to vse their armes, they would take vp their gowne and cast it quite behind them, or vpon their shoulders. But these striplings could not for one whole yeares space, cast back their gowns in that manner for the liberty of their armes without the imputation of immodesty, as it appeareth by [t] *Cicero*, *Nobis annus erat vnus ad cohibendum brachium toga constitutus*. The like liberty it seemeth was denied those that stood for places of office; [v] and thence is it, that *Horace* wisheth such to hire them a seruant

Et toga non tactus vincere iussa nives Martial.

r Rosin. antiq. Rom. l. 5. c. 32.

s Aldus Manutius, v. Ros. ib.

t Cic. in orat. pro Cœlio.

u Sig. de iud. lib 3. cap. 19.

---Læuum
Qui fodiat latus, & cogat trans pondera dextram
Porrigere---

In which place by *pondera* is vnderstood the Roman gowne, as [x] *Sigonius* hath expounded that place. Now for the vnderstanding of *Toga candida*, wee are to learne a difference betweene this *candida toga*, and the *toga pura* aboue spoken of, which is oftentimes called *toga alba*, both of which were white, but differed in the degree of whitenesse. The *toga alba* had only the naturall whitenesse of the wooll; the *toga candida* had an artificiall white die: whereby the glasse of the white was made more orient and intensiue. Or else as [y] *Sigonius*

x Sigon. ib.

y Sigon. ib.

nius hath obſerued out of *Iſidorus*, *intendendæ albedinis cauſâ cretam addiderant*, that is, they chalked it to encreaſe the whiteneſſe thereof. And hereunto *Perſius* alludeth

----Quem ducit hiantem Cretata ambitio.

Whence *Polybius* calleth it *togam* λαμπράν, that is, ſhining or ſplendent. Moreouer whereas the *alba toga* was the ordinary Roman gowne which commonly the *Romane* cittizens did weare; this *candida toga* was only worn by thoſe which did *ambire magiſtratum*, ſue for a magiſtracy or place of office, who during the time of their ſute were called from their gowne *condidati*: and *Quintilian* borrowing his metaphor from them, hath called an young ſtudent *eloquentiæ candidatum*. The third ſort of gowne which I tearmed *togam pullam*, was a black gowne, and thereof was two ſeuerall kinds; the one cole-black, which was worne *luctus cauſa*, in token of mourning and the mourners were thence called *Atrati*, and as often as they did were this gowne, they were ſaid *Mutare veſtem*, [z] which phraiſe in old autors doth ſignifie nothing elſe, but to goe in mourning apparell: The other not cole-black, but only fouled or ſtained, and that was worne *reatus cauſa*, in times of arraignemẽt, & thoſe that wore it were called *ſordidati*, *á ſordibus in veſte*, from the ſpots or ſtaines in the gowne. Where we muſt note, that in proceſſe of time *Toga pulla* became the ordinary gowne which the common people did weare; at which time the ordinary gowne, which the cittizens of better place and eſteeme did weare, was the *toga candida*: whereupon there did then grow a diſtinction of the cittizens vnknown to the former age, ſaith *Roſinus*, namely that ſome were tearmed *candidati*, others *pullati*, *Candidati* were thoſe, not which became ſuiters for places of office (as in old time it ſignified) but thoſe which did liue in better repute then others, from whence it is, that [a] he whoſe office was to reade the Emperours letters in the ſenate was called *Candidatus principis*, or *Quæſtor candidatus*. It did ſomewhat reſemble the office of the King his maieſties chiefe Secretary.

[z] Sig. de iud. lib. 3. c. 19. Cic. orar. pro P. Sext. *Suum dolorem veſte mutatâ ſignificabant Romani.*

[a] Feneſtella de mag. Rom. cap. 3.

cretary. *Pullati* were those of the commonalty or inferiour sort. The fourth sort of gowne was the *toga prætexta*, so called, *quia ei purpura prætexta erat*, because it was garded about with purple silke. This kinde of gowne at the first was vsed only by the Romane priests, and chiefe magistrats: Neither was it lawfull for such as did weare that gowne to be arraigned, or sentence to be giuen on them vntill that gowne was put off. In continuance of time this *toga prætexta* was permitted first to Noble-mens children: afterward to all Romane children in generall: wherevpon, [b] *Togatus â prætextato differt, vt priuatus à magistratu, & vir â puero*, and *ætas prætexata*, is taken for childhood; and *pretextati* sometimes for magistrates, but commonly for young children. The fift sort of gowne was called *Paludamentum*; It was a military garment, which [c] none but the L. Generall of the chiefe captaines did vse to weare [d] *Isidorus* said it was not only garded with purple, but with skarlet and gold lace, whence it was sometimes called [e] *toga purpurea*, sometimes *coccinea*. It was much like the habit which the *Grecian* Emperour was wont to weare called *Chlamys*; yea now it is [f] called *Chlamys*; we may englsh it an *Heralds* coate of Armes. The sixt sort of gowne was called *toga picta*, [g] because in it were imbroadered goodly pictures with needie work: it was also called *Purpurea*, not because of any purple gard (in which respect the *prætexta*, and the *paludamentum* were called *purpureæ*) but because it was all ouer with a purple die. It was by some tearmed *toga palmata*, because in it many palme branches being the reward & token of victory were wrought; whence by others it was called *toga triumphalis*, because emperours in their triumphs did weare such gownes. The last sort of gowne was *Trabea*, whereof there were [h] three seuerall kinds; the one wouen all of purple, which was consecrated vnto the Gods: the second was purple wouen vpon white, and this only kings and *Consuls* might weare, the third was skarlet wouen vpon purple, and this the *Augures* onely did weare. [i] This last sort was there-

[b] Pet. Pellitarius, in orat. pro A. Cæcin.

[c] Alex. Gen. dier. l. 5. c. 18.
[d] Sig. de iud. lib. 3. c. 19.
[e] Sigon ib.

[f] Rosin. antiq. lib. 5. c. 31.
[g] Sig. de iud. lib. 3. c. 19.

[h] Serv. Æneid. lib. 7.

[i] Alex. Gen. dier. l. 5. c. 18.

therefore called *trabea auguralis*, the second *trabea regia*, the first *trabea consecrata*.

Cap. 8.

De Tunica.

THose coats which were worne vnder the gowne were called *Tunicæ*; and that they were worne vnder the gowne it appeareth by that Adage, *Tunica pallio propior est*, that is euery one for himselfe first; or according to our english proverbe, Close sitteth my shirt, but closer sitteth my skinne.[k] This *tunica* was both narrower and shorter then the gowne: at first it was made without sleeues, afterward with sleeues, and by it, as well as by the gowne were the cittizens distinguished. The first sort of coats was made of white cloath commonly,[l] but purfled over and embroadred with studs of purple in manner of broad nayle heads; whence it was called *Laticlauia*, or *Latus clavus*; and the persons wearing the coat were Senators called thence *Laticlavij*, The second sort belonged vnto the *Romane* knights, and it differed in making from the first, only that the purple studs or embroadred works of this, were not so broad as the former: whence the coat was called *Angusticlauia*, or *Angustus clavus*, and the persons wearing it were called *Angusticlavij*. The third sort belonged vnto the populacy and poorer sort of *Romans*; it was made without any purfled workes, being called *Tunica recta*. This coat was giuen together with the *Virile* gowne to striplings past sixteene yeares old, and to new maried women. And as the *recta tunica* was giuen with the *virile* gowne; so was the *tunica clauata* giuen togither with the *toga prætexta*; & the *Laticlauia* otherwise called *tunica palmata*, giuen with the *toga picta*. The fourth and last sort belonged vnto vvomen, being a long coat reaching dovvne vnto the heeles; they called it *stolam*. Vpon it they did vveare an outvvard garment[m] called *palli-*

[k] Sig. de iud. lib. 3. cap. 20.

[l] Salmuth. in Pancirol. lib. rerum deperdit. cap. de fibula. Vid. Turneb. adverſ. l. 1. c. 2.

[m] Rosin. Ant. lib. 5. cap. 35.

m Sig.de.iud. lib.3.cap.19.

um, and sometimes *palla*, *quia palam gestabatur*. n *Sigonius* saith, that this *palla* was a certaine gowne vsed by stage-plaiers: howsoeuer certaine it is, that not only women, but men also and children did weare this kinde of garment. Besides the *Roman* gown and coat there remaine other parts of their apparell to be spoken of: such are these which follow, *Lacerna*, which some doe english a cloake, but o *Festus* would haue it to be a little kinde of hood, which men should weare to defend themselues from the raine and weather; It was made that either side might be worne outward; and at first it was worne only in warre, so that *lacernati* stood in opposition with *togati*. p *Isidorus Togatos pro vrbanis, lacernatos pro militibis vsurpatos scribit*, Afterward as we may coniect, it was made longer in manner of a cloake, for it was diuers times worne vpon their coats insteed of gownes. Another kinde of garment was the *Penula*, so called *quasi pendula*, wee may translate it a long hanging cloake. A third was called *Mitra*, which sometimes did signifie a certaine attire for womens heads, as a coyfe or such like; though this kinde of attire was more properly called *Calantica*: other times it signified a girdle, which more properly was called *zona*; This *zona* chiefly signified a souldiers belt, or a marriage girdle: The souldiers belt was lined within in the inside, were when they went to warre, they did put their mony: whence *Horace* saith of a man that hath lost his mony, *zonam perdidit*, And ζώσασθαι, to be girt, signifieth Ἐνδύναι τὰ ὅπλα, *Arma induere*. *Cœl. Rhod. l. 22. 19.* happely because that part of the body which was girt, was consecrated to *Mars*, as the forehead was to euery mans particular *Genius*, the armes to *Iuno*, the breast to *Neptune*, the reines to *Venus*, the feet to *Mercury*, and the fingers eo *Minerua*, *Alex. ab Alex. l. 2. c. 19.* Young maides when they were married were wont to haue a marriage girdle tied about their middle, which their husband at the first night of their marriage should vntie: whence *zonam soluere* hath beene translated to deflowre a Virgine: this marriage girdle

o Sigon. ibid.

p Sigon. ibid.

girdle in former times was called *Cestus*, from whence commeth the Latine word *incestus*, and the englisſh word Inceſt: which in truth ſignifieth all kinde of pollution commtited by vndoing, or vntying this girdle called *cestus*: but now in a more ſtrict acception it ſignified only that kinde of naughtineſſe, which is committed betweene two of neere kin:[q] and that other folly which is committed with a ſtrangers wife, is now properly called *adulterium*; and that which is committed with a maide or widdow *ſtuprum*. The laſt thing touching their apparell is their ſhooes. [r] *Calceamentorum genera duo fuerunt, calceus, & ſolea*: For the ſoale of the ſhooe called in Latine *ſolea*, ſometimes *crepidula*, and in *Cicero* his time *gallica*, was tied on to the bottome of the foot with leatherne ſtraps or buckles, and ſo worne inſteed of ſhooes: the diuers kindes of theſe ſhooes did diſtinguiſh the *Roman* people alſo. To omit the difference in colours, wee may reduce the chiefe kindes to fiue heads, *Mullei, Uncenati, Perones, Cothurni, Socci*. All theſe ſorts of ſhooes were made halfe way vp the legge, as the Turkiſh ſhooes are according to *Ioſephus Scaliger*: and they were either laced cloſe to the legge, as many of our boots are now adaies; or claſped with taches or haſpes. The firſt ſort called *Mullei* [s] from the fiſh *mullus*, being like vnto it in colour, were alſo called from their claſpes *calcei* [t] *lunati*, becauſe the claſpes were made in forme of an halfe moone; which halfe mooned claſp reſembling a *Romane* C, ſignified an hundred, [u] intimating thereby that the number of the *Senators* (they onely being permitted to weare this kinde of ſhooe) were at firſt a full hundred and no more. Others are of opinion that they wore this mooned claſp to put them in minde that the honour to which they had attained was mutable and variable as the moone. For they thinke that theſe *Lunati calcei* were not receiued as a token of Nobility only at *Rome*, but in other places, to which purpoſe they interpret that of the Prophet *Eſay, cap. 3. In die illo aufert Dominus ornamentum calceorum & lunulas. Cœl. Rhod. lect. Antiq.*

[q] Cælius in orat. pro. Milone.

[r] Roſin. antiq. Rom. lib. 5. c. 36.

[s] Salmuth in Pancirol. lib. rerum deperdit. cap. de fibula.

[t] *Appoſitam nigræ lunam ſubtexit alutæ.* Iuenal.

[u] Salmuth. in Pancirol. lib. rerum deperdit. cap. de fibula

*tiq.l.*20.*c.*28. *Vncinati calcei*, vvere thoſe, vvhich the ſouldiers vvere vvont to vveare, I take them to be the ſame vvith thoſe vvhich they called *Caligæ*, from vvhich kinde of ſhooes *C. Cæſar Caligula* had his name, becauſe he vvas borne in the army. *Quia natus in exercitu fuerat, cognomentum calceamenti militaris, id eſt, Caligula ſortitus eſt. Aurel. Vict. Epitom. de vita imperat.* *Perones* (as vve may coniecture) vvere laced vp the legge, for *Tertullian* making but tvvo ſort of ſhooes, ſaith there vvere the *Mulei* called from their claſpes *lunati*, and the *Perones* made vvithout ſuch halfe mooned claſpes, called alſo *calcei puri, quoniam ex puro corio facti*; and theſe *perones*, or *puros calceos* all the other *Romans* did vveare [x] vvith this note of diſtinction, that the magiſtrats ſhoos vvere beſet vvith pretious ſtones, priuate mens vvere not. Thus much concerning both the kindes and faſhion of the ſhooes may be collected out of *Roſinus* in the place aboue quoted. The deſcription and vſe of the *Cothurnus*, and *Soccus*, may be ſeene in the tract *de Romanis ludis*.

[x] Salmuth in Pancirol. lib. rerum deperdit. c. de fibula.

LIB.

LIB. 3. SECT. 2.

Of the Romane Magistrats.

CAP. 1.

De Magistratibus Romanis.

WE being to treat of the *Romane* Magistrates vvill first see vvhat the definition of a Magistrate is. A magistrate is he [o] vvho receaueth by publique authority, the charge and ouersight of humane affaires belonging to the commonvvealth. These *Romane* Magistrats vvere either to bee chosen only out of the better sort of *Romanes*, called the *Patricij*; or else only out of the commonalty. [p] The first vvere thence called *Magistratus patricij*, the second *Magistratus plebeij*. The *Patricij* had povver to hinder the assemblies of the people; namely their *Comitia*, by obseruing signes and tokens from the heauens: hovvbeit some of them had greater povver, others lesse; insomuch that some vvere called *Maiores Magistratus, quoniam habebant maiora auspicia, id est, magis rata*. Others vvere called *minores magistratus, quoniam habebant minora auspicia*. Of these in their order.

[o] Sig. de iur. Rom. l. 1. c. 20.

[p] Sig. de iure Prouinc. l. 3. cap. 1.

[q] Feneſt. de Magiſt. Rom. cap. 1.

CAP. 2.

Cap. 2.

De Rege & Tribuno Celerum.

IN the infancy of *Rome*, it vvas gouerned by a king vntill *Tarquinius Superbus* his time, vvho by maintaining that shamefull act of his sonne tovvards *Lucretia*, did so incense the poople, that they did not only for the present exile him, but decreed that their city should neuer after that bee gouerned by a king. This king had absolute rule and gouernment ouer the city. For the safety of his person hee had three hundred chosen young men alvvaies to bee attendant about him, much like vnto our Kings Majesties Guard here in *England*, or rather his *Pensioners*. They vvere called [r] *Celeres à celeritate*, from their readinesse in assistance: sometimes they vvere called *Trossuli*, [s] because they alone vvithout the helpe of any foot-men did take a certaine city in *Etruria* called *Trossulum*. Other times they haue beene called *Flexumines*, vvhereof as yet there hath beene no certaine reason rendred. Each hundred of them had their seuerall ouerseer called *Centurio*: and ouer them all there vvas one generall ouerseer, and chiefe commander, vvhom they called *Præfectum vel Tribunum Celerum*, his place being next to the king. A second sort of attendants about the king were called *Lictores à ligando*, according to that, *Lictor colliga manus*. They were by the *Grecians* called ῥαβδοῦχοι, which we may render Virgers from ῥάβδος a rodde, and ἔχω, to haue: though sometimes ῥαβδοῦχοι doe signifie the same as ῥαψῳδοί. The rehersers of *Homers* verses, or in generall of any other *Poets*: ἀπὸ τὸ ῥάπτειν ᾠδάς, from patching together other mens Poems. For the reciters of *Homers* verses were wont to hold a rodde or wand in their hand during the time of rehersall. *Cæl. Rhod. l. 7. c. 29.* They did somewhat resemble our Seriants, there being in number twelue of them. Their office was to carry certaine bundles of birchen

[r] Plutarch. in Romulo.

[s] Plin. lib. 33. cap. 2.

birchen rods with an axe wrapped vp in the midst. of them: the rods in Latine were called *Fasces*, the axe *Securis*. [t] The reason why they carried both axes and rods was to intimate the different punishment that belonged to notorious and petty malefactors. The reason why they were wraped vp together was not only that they might thereby be more portable, but that the anger of the magistrate might be somewhat allayed, whiles they were vnbinding. Hence, because these *Fasces virgarum & securium*, did betoken honour and chiefedome in place and autority, by the figure *Synecdoche* this word hath beene vsed to signifie honour and dignity, as *Fascibus suis abrogatis*, he being discharged of his magastracie or dignity. And *Fasces submittere* to giue place, or yeeld vnto. *Valerius Publicola* gaue the occasiō of the prouerb. He to insinuate himselfe into the harts of the people is said, *Submittere fasces populo quoties prodiret in concionem.* Some interpret it, as if he were wont to command the seriants quite to departe out of the assembly with their rodds, which opinion *Plutarch* in *Publicola* confuteth writing thus: *αὐτὰς τὰς ῥάβδους εἰς ἐκκλησίαν πορευόμενος, ὑφῆκε τῷ δήμῳ, καὶ κατέκλινε. Fasces ipsos in concionem progressus populo submisit inclinauitq;* So that the phrase signifieth properly, the not holding vp of the rodds, or rather the laying them downe as it were at the feete of the people. *Cæl. Rhodig. l. 12. c. 7.*

[t] Ioac. Camerarius in orat. pro Flacceo.

Immedicabile vulnus Ense recidendum. &c.

Cap. 3.

De Senatu, & quis Princeps Senatus, & qui Senatores Pedarij?

TOuching the election of the *Senators*, the number of them, and the distinction of them into *Senatores maiorum & Senatores minorum gentium*, sufficient hath beene deliuered in the second diuision of the *Roman* people; as likewise in the third diuision hath beene shewne the habit

or gowne by which the *Senators* were distinguished from the *Roman* Gentlemen. Here therefore it shall be sufficient for vs to vnderstand, that euery solemne meeting, or consistory of these *Senators* was called *Senatus*. The foreman of them (which could be no other then such, as had been either *Consul* or *Censor*, was called *Princeps Senatus*, and his opinion was alwaies first asked. Now among those that had borne those foresaid offices, it was in the *Censors* power to make whom he would fore-men. The decree of this consistory was called *Senatus-consultum*. And many times it is written with these two letters onely, S. C. In like manner their preface to these decrees was commonly these two capitall letters B. F. That is *Bonum factum*. *Sueton. Iul. Cæs. cap. 80:* and it had the same vse as, *In nomine Dei* with vs. The place where this consistory was had they called *Senaculum*. None was [u] ordinarily admitted into the place of a *Senator*, before the fiue and twentieth yeare of his age: and of those that were admitted, some were allowed to ride vnto the Senate-house in a Curule-chaire, namely when they had borne such offce, which gaue them right vnto that chaire: others which had not borne such office went on foot: [x] whence these latter were called *Senatores pedarij*. They determined their acts which they called *Senatus-consulta*, sometimes by departing downe their branches, and dividing themselues into sides; those which did approue that which was proposed, sided with the party who did *Referre ad Senatum*, that is, propose the matter vnto the Senate; the others departed vnto the contrary side; or if they came not downe at all, but sate still on the benches, then did they signify by holding vp, or beckning with their hands, what side they would take. Now if the maior part were easie to be discerned, then they rested there, tearming that act to be decreed [y] *per discessionem*: and hence these and the like phrases haue taken their beginning, *In illius sententiam iturus sum*, and *Manibus pedibusq; discedere in alicuius sententiam*, that is to be fully perswaded of ones opinion, Now if both companies

[u] Mart. Phileticus. in Cic. l. 1. ep. fam. 1.

[x] Mart. Phileticus ibid. It. A. Gel. noct Attic. l. 3. c. 18.

[y] Hubert. in Cic. lib. 1. ep. fam. 2.

butes, impostes, tollage, &c.[y] At the fiue yeares end, the acts of both their *Censors* were registred vpon books of record, which records were laid vp in a certaine religious house dedicated to the *Nymphs*. Whence[z] *Cicero* speaking of *Clodius*, saith, *Qui ædem Nympharum incendit, vt memoriam publicam incensis tabulis publicis impressam aboleret.*

[y] Pancirol. l. rerum deperd. cap. de cibi capiendi modo.
[z] Cic. pro Milone.

Cap. 6.

De Prætoribus.

THE *Consuls* by reason of their many troubles in warre, hauing no time to administer iustice vnto the *Roman* people, did for their better helpe therein, create two new officers for the executing of iustice; the one to examine and iudge of matters within the citty, betweene citizen, and citizen; the other to decide controuersies between forreiners: The first they[a] called *Prætorem vrbanum*, & *Prætorem maiorem*; the other *Prætorem peregrinum*, & *Prætorem minorem*: we may englisth them Lord-chiefe-Iustices. Where we must note that at the first there was only the *Prætor Vrbanus*, vntill the cases and suits in law became so many, that one was not sufficient to heare them all:[b] yea at last the number of the *Prætors* came to sixteene: namely, when those two were added for the providing of corne and graine: whence they were called *Prætores cereales*;[c] nay there were at last eighteene *prætors*, there being two others added to iudge of controuersies touching feofments of trust, called thence *Prætores fidei commissarij*.[d] *Causarum duo genera sunt: aliæ priuatæ, aliæ publicæ; has criminosus, illas ciuiles appellant.* In those cases which were priuate, that is,[e] touching equitie and vprightnes of any act, or the restitution of any mony, or goods vnlawfully detained from the right owner, it belonged principally vnto the[f] two first *Prætors* to iudge, but vnder them vnto the *Centumviri*, who oftentimes are called by *Tully*, *Recupera-*

[a] Pighius æquipet. comp.
[b] Alex. Gen. dier. l. 2. c. 15.
[c] Feneſt. de mag. Rom. c. 19.
[d] Fr. Syluius in orat. pro Muræn.
[e] I. Saxonius in Cic. orat. pro S. Roscio.
[f] Rosin. ant. lib. 7. c. 11.
[g] I. Saxonius ibid.

cuperatores, and *Iudices hastæ*; the court *Hasta centumviralis*; because one of the markes and speciall ensignes was a speare erected vp in the place the court was kept. Those cases which were publique or criminal, as treason, murder, bying of voices in the canvasing of offices, &c. were called also *causæ capitalis*, and *capitis dimicatio*, that is, [h] such cases wherein if the party accused had beene found guilty he was *capite damnatus*: by which phrase we must not vnderstand alwaies *Vltimum supplicium, sed aliquando exilium, quo scilicet caput*, that is, *ciuis eximitur à ciuitate*. [i] These cases at the first were heard by the kings and *Consuls*; afterward by certaine appointed thereunto by the people, being called from their inquisition *quæsitores parricidij*. In continuance of time the examination and hearing of these publique cases was turned ouer vnto certaine magistrates, who becausse they were to continue their office a full and entire yeare (whereas the others had their autority no longer then they sate in iudgement) were thence for distinction sake called *Prætores Quæsitores*, and the cases were tearmed *Quæstiones perpetuæ*: [k] becausse in these cases there was one set forme of giuing iudgement perpetually to remaine; whereas in those priuate or civill causes the *Prætor* did commonly euery yeare change the forme of giuing iudgement by hanging vp new edicts. [l] Here we must note that these *Quæsitores Parricidarum*, otherwise called *Prætores Quæsitores*, had not the examination of all publike cases, but sometimes vpon extraordinary occasions either the *Consuls*, the *Senate*, or the people themselues would giue iudgment. Now as those former *Prætors* had a speare erected vp, whereby their court for priuate causes was known; so had these *Quæsitores* a sword hanged out in token of their court. [m] *Prætorum insignia duo fuere, hasta, & gladius: illa ad iurisdictionem, hic ad quæstionem significandam.* The officers which did attend these *Prætors* were *Scribæ*, that is, certaine notaries much resembling the Clarkes of our Assises, their office being to write according as the *Prætors* or

[h] Fr. Sylu. in orat. pro Mur.

[i] Rosin. ant. l. 9. c. 18.

[k] Rosin. ant. lib. 7. c. 11.

[l] Rosin. ant. lib. 6. c. 18.

[m] Sig. de iud. lib. 1. cap. 7.

or chiefe Iustices did bid them, taking their name *à scribendo*. The second sort were called *Accensi ab accuendo*, from summoning, because they were to summon men to their appearance. They much resembled our Bayliffes errant. The third sort were *lictores* of which before: [n] The authority of the vrbane *Prætor* was so increased in time, yea his honour was such, that whatsoeuer he commanded, it had the name of *Ius honorarium*. [o] Others are of opinion, that onely the *Prætors* edict was that *Ius honorarium*; [p] the *Prætor Vrbanus* being wont at the entrance into his office, to collect a set forme of administration of iustice out of the former lawes & seuerall edicts of former *Prætors*, according vnto which hee would administer iustice all the yeare following. And least the people might be ignorant of the contents thereof, he caused it to be hanged vp to the publike view. This forme of iustice was tearmed *Edictum, ab edicendo, id est*, [q] *imperando*; because thereby he did command, or forbid something to bee done. Whence *Pellitarius* in the place now quoted doth translate *consulum edicta*, Mandatory letters, that it might be distinguished from other Magistrats edicts. It was commonly called *Prætoris edictū*. And as *Pighius* obserueth in the place aboue quoted, it was called *edictum perpetuum*; not absolutely, because the vertue therof was perpetuall (for that expired together with the *Prætors* office, and therefore [r] *Tully* calleth it *legem annuam*:) but in respect of other edicts made in the middle of the yeare vpon extraordinary and vnexpected occasions, which latter sort of edicts [s] *Tully* calleth *peculiaria & noua edicta*. Afterward, [t] *Salvius Iulianus* collected an Edict out of all the old edicts of the former *Prætors*, wherein almost all the whole ciuill law was contained, and this was called properly *Edictum perpetuum*, because that all the *Prætors* euer after did administer iustice according to the Edict, by the appointment of *Hadrianus* being then Emperour. The Edict being giuen out, the administration of iustice consisted in the vse of one of these three words, *Do, Dico*,

[n] Feneſt. de Rom. magiſt. cap. 19.
[o] P. Pellit. in Cic. orat. pro A. Cœcinna.
[p] Pighius Æquiper. comp.
[q] Pellit. in Cic. orat. pro A. Cœcinna.
[r] Cic. in Ver. 2
[s] Cic. in Ver. 5
[t] Sig. de iud. lib. 1, cap. 6.

co, & *Addico, id est,* [u] *Dat actionem, Dicit ius, Addicit tam res quàm homines.* That is, he is said *Dare*, when he granteth out an action or writ against a man. *Dicere* when hee passeth iudgement on him, and *Addicere* when he in the court doth see & allow the deliuery of the thing, or the person on which iudgement is passed. The forme of Addiction was thus. After iudgement had beene pronounced in the court the partie which prevailed, laid his hand on the thing or the person against which sentence was pronounced vsing this forme of words, *Hunc ego hominem, siue hanc rem, ex iure Quiritium meam esse dico.* Then immediatly did the L. chiefe Iustice *Addicere*, that is, approue the challenge, and grant a present possession. *Anton. in Fast. lib. 1.* For explanation whereof wee must knowe, that this word *Addico*, is sometimes *verbum Augurale*, sometimes *Forense*, sometimes a tearme of art belonging vnto the discipline of the *Augures*, and so the birds are said *Addicere*, when they shew some good and lucky token; that the matter consulted about is approued by the Gods; the opposite herevnto is *Abdicere*. Sometimes this verbe *Addico* is a tearme of law signifying as [x] much as to deliuer vp into ones hands, or into ones possession: whence we doe not only call those goods that are deliuered by the *Prætor* vnto the right owner *bona addicta*, but those debtors also which are deliuered vp by the *Prætor* vnto their creditours to work out their debt, are tearmed *servi Addicti*: yea moreouer because in all port-sales it was necessary that the *Prætor* should *Addicere bona* deliuer vp the goods sold: hence doth this word often signifie to sell, as *Addicere sanguinem alicuius*, to take money to kill a man, to sell a mans life. Touching the reason of their name, they were called *Prætores à præeundo quoniam iure præibant.* And [y] those alone were properly tearmed *viri prætorij*, which had borne this office, not they which were capeable thereof: in the same sense we say *Viri censorij*, and *viri Ædilitij, &c.*

[u] I. Camerar. in Cic. orat. pro Flacco.

[x] M. Toxita in orat. pro Pub. Quint.

[y] Fr. Maturantius in Philippic. 13.

Cap. 7.

De Imperatoribus, Cæsaribus, siue Augustis.

WHen *C. Iulius Cæsar* had ouercome *Pompey* his sonnes in *Spaine*, at his returne to *Rome* the *Senate* welcomed him with new inuented titles of singular honour, stylling him *Pater patriæ*, *Consul in decennium*, *Dictator in perpetuum*, *Sacrosanctus* and *Imperator*, all which titles were afterward conferred vpon *Octavius Cæsar*, & all the Emperours succeeding desired to be called *Imperatores & Cæsares* from him. Where wee must vnderstand that this name *Imperator* was not altogether vnknowne before, for by that name the *Roman* souldiers were wont (euen at that time) to salute their L. Generall after some speciall conquest.[z] These *Romane* Emperours were afterward called also *Augusti* from *Octavius Cæsar* whom when the Senate studied to honour with some noble title, some were of minde that he should be called *Romulus*, because he was in manner a second founder of the citie. But it was at length decreed by the advise of *Manutius Plancus*, that he should be styled by the name of *Augustus*: which wee may English Soveraigne, & they counted this a name of more reverence and maiestie then that former name of *Romulus*, because all consecrated and hallowed places were called *Loca augusta*. The authoritie of these Emperours was very great, euen as great as the Kings in former times.

[z] Serv. Æn. 1.6

Cap. 8.

De principibus iuventutis Cæsaribus, & nobilissimis Cæsaribus.

[a] Rosin. ant. l. 7. c. 13.

A [a] custome was receaued amongst the *Romane* Emperours in their life time to nominate him whom they would haue to succeed them in their Empire; & him they called *Princeps iuventutis, Cæsar,* & *Nobilissimus Cæsar.* The like custome was practised by *Charles* the fifth Emperour of *Germany,* and so hath beene continued by his successours; namely, that one should be chosen whom they called *Rex Romanorum,* who should bee so farre invested in the title to the Empire by the meanes of the present Emperour, that vpon the death, resignation, or deposition of the then being Emperour, he immediatly should succeed.

Cap. 9.

De Præfecto vrbis.

Romulus for the better gouernment of the citty appointed a certaine officer called *Vrbis Præfectus,* to haue the hearing of all matters or causes betweene the master and the servant, betweene orphanes and their ouerseers, betweene the buyer and the seller, &c. Afterward in time of the *Roman* Emperours, this *Vrbis Præfectus* did assume vnto himselfe such authority, that hee would examine and haue the hearing of all causes, of what nature soeuer, if they were *Intra centesimum lapidem,* within an hundred miles of *Rome* (for [b] *Lapis* in old time signified a mile, because at every miles end a great stone in maner of a marke-stone was erected) In the absence of the King or Consuls, he had all authority which belonged vnto them resigned vnto him. I am

[b] Despauterius in sua syntaxi.

not

not ignorant, that some doe make this latter kinde of Prefecture, or Lieutenantship, a different office from the former. But I should rather think them to be one and the same, only his authority to be more enlarged in the Kings absence, and of this opinion doe I finde *Feneſtella*, *Alexand. Neopol.* and [c] *Sigonius*.

[c] Sig. de iure Rom. l. 1. c. 20.

Cap. 10.

De Decemviris legibus scribendis.

FOR the better administration of iustice: the [d] *Romans* appointed three men, namely [a] *Sp. Posthumius*, *Ser. Sulpitius*, *A. Manlius*, to goe to *Athens*, and other *Grecian* cities, there to peruse the *Grecian* lawes: to the intent that at their returne, both a supply might be made of those lawes that were wanting in *Rome*, and the other which were faultie, might thereby be rectified and amended. At the returne of those three men, the *Consuls* were deposed, & both their authority and ensignes giuen vnto [b] ten men newly elected for the gouerment of the state, and were thence called *Decemviri*. The first elected into this Decemuirat were, *Ap. Claudius*, *T. Genutius*, *P. Sextius*, *Sp. Veturius*, *C. Iulius*, *A. Manlius*, *Ser. Sulpitius*, *P. Curiatius*, *T. Romulus*, *Sp. Posthumius*. All of them such as had borne the office of a *Consul*. The lawes which they brought from *Athens* were written at first in ten tables of brasse: afterward two other tables were added, at which time those lawes began to be knowne and distinguished from others by the name of *Leges 12 tabularum*. And according to those lawes iustice ever after was administred to the *Romane* people: at first by these ten men appointed thereunto, whose authority was as large euen as the *Kings* and *Consuls* in old time, only it was annuall, one of them only had the ensignes of honor carried before him; one alone had the authoritie of conuocating the Senate,

[d] Feneſt. de magiſt. Rom. cap. 14.
[a] Roſin. lib. 7. cap. 19.
[b] Lipſ. Reg. Leg.

confirming their decrees, and the discharge of all state busi-
nesses. [e] The other did little differ from private men in their
habit; only when the first had ruled a set time, the others suc-
ceeded by turnes. This kind of gouerment did not continue
long in *Rome*, for in the third yeare all their power was abro-
gated, because of their tyranny and oppression vsed by them
towards the Roman people.

[e] Rosin. ant. Rom. l. 7. c. 19.

Cap. 11.

De Interregia potestate.

After the death of *Romulus* [f] the *Senators* diuided themselues into seuerall companies called *Decuriæ*, committing the gouerment of the kingdome to that *Decury*, that is, to those ten men, vpon whom the lot fell, calling them the *Interreges*: where wee must knowe, that these ten did not rule altogether, but each man ruled for the space of fiue daies, whence [g] *Rosinus* calleth this magistracie *Magistratum quinqueduanum*. After that fiue daies gouerment had passed through the *first*, then did they go to lots to haue a second *Decury* chosen, and so a third, &c. This office of an *Interrex* remained euē in the *Consuls* time, so that if by some extraordinary occasion the *Consuls* could not bee created [h] then they chose one, to whom alone they committed the whole gouerment of the kingdome, and him they called *Interregem*.

[f] Dion. Halic. l. 2.

[g] Rosin. lib. 6. cap. 16.

[h] Alex. Gen. dier. l. 5. c. 6.

Cap. 12.

De Dictatore.

Whensoever the *Romans* found themselues en-
combred with dangerous wars, or any other e-
minent dangers, they presently chose a *Dictator*,

to

to whom alone was committed the authority and rule of the whole kingdome, differing from a King only in respect of his name, and the continuance of his office. Touching his name he was so called, *quoniam dictis eius parebat populus.* His office continued but six months; and at the expiration thereof, if need required, hee was chosen againe for another six months. He was also called [i] *Populi Magister*, in as much as none could make their appeale from him vnto the people. As soone as himselfe was established in his office, he chose a subordinate officer whom he called [k] *Equitum Magister*: his authoritie much resembled his, whom they called *Vrbi Præfectum*: for as the *Præfectus vrbi* in the absence of the king, so this *Magister Equitū* in absence of the *Dictator* had full and vncontroleable authoritie of doing what he would.

i Pighius in Tyran.

k Stadius in Flor. l. 1. c. 11.

Cap. 13.

De Tribunis militum.

THese [l] military *Tribunes* were of two sorts. The one had all power and authority, which belonged vnto the *Consuls*; and thence were called *Tribuni militum consulari potestate.* The occasion of them was this: The protectors of the commons called *Tribuni plebis*, did earnestly labour that the commonalty might be made as capeable of the consular dignity as the Nobilitie: [m] This was followed so hot, that in the end though the Nobilitie would not grant them way vnto that dignity vnder the name of *Consuls*; yet in effect they would grant it them. Namely the *Consuls* should be deposed, & in their steed other magistrates should be chosen; part out of the Nobility, part out of the commonalty, who though they were not called *Consuls*, but *Tribuni* yet were they of *Consular* authoritie: by which they were distinguished from the other sort of Military *Tribunes*, who had power and authority only in matters military, and were

l Rosin. ant. lib. 7. c. 20.

m Rosin. ibid.

knowne

knowne by the name of *Tribuni militum* without any addition. [n] Sometimes there was one of these three words prefixed, *Rutuli* or *Rufuli*, *Suffecti* and *comitiati*; not thereby to intimate vnto vs any distinction of office or place, but to signifie their manner of election. For if they were chosen by the *Consuls*, then were they called *Tribuni Rutuli*, or *Rufuli*, because they had their authority confirmed vnto them by vertue of an act or law preferred by *Rutilius Rufus*, when he was *Consul*. If they were chosen by the souldiers themselues in their campe, then were they called *Tribuni suffecti*, that is, *Tribunes* substituted or put in the place of another. Whence we may coniect, that the souldiers were not permitted to make any election, but in time of need, when their former *Tribunes* were taken from them by some violent or vnnaturall death. The last sort called *Comitiati*, were so called because they were chosen by the Roman assemblies, called in Latine *Comitia*. They were named *Tribuni*, because at the first institution of them (whether we vnderstand the Consular *Tribunes*, or this latter sort) there were but three of each. In processe of time notwithstanding I finde the number not only of those *Consular Tribunes*, [o] but of those other also to haue beene encreased to six, accordingly as the thousands in a legion were multiplied. These latter sort of *Tribunes*, in respect of their military discipline, which was to see the souldiers being faultie to be punished, we may englisn **Knights Martiall**: In respect that their authoritie was ouer foot men only, we may englisn them **Seriants maior**: only this difference there was, to every thousand of foot-men in any legion, there were as many military Tribunes vnder their chiefe commander called *Imperator*. But in our englisn armies there is but one **Seriant maior**, who alone vnder the L. Generall hath command ouer all the foot-men, bee there neuer so many thousands.

[n] Alex. Gen. dier. lib. 6. c. 18

[o] Rosin. antiq. lib. 7. cap. 20.

CAP.

Cap. 14.

De Triumviris Reipub: constituendæ.

THis tyranny of the *Triumviratus* beganne by a conspiration betweene *Augustus Cæsar*, *Antonius*, and *Lepidus*. For these three vnder the pretence of reuēging *Iul. Cæsar* his death, obtained chiefe power and authority for the space of fiue yeares throughout *Rome*, [p] pretending that they would settle the commonwealth, which at that time by reason of *Iul: Cæsars* death was much out of order. Those fiue yeares being expired, they refused to resigne their authority, exercising excessiue crueltie towards all the *Romans* of what degree soeuer. [q] This kinde of gouerment remained but ten yeares, neither ever were there any other then those three aboue named. They had power to enact any new law, to reverse any former Act, without the consent of the *Senate*, or commons. They might proscribe and banish any *Roman* at their pleasure; and as often as we read *de Triumviratu* simply without any adiunction, or *de Triumviratu Senatus legendi*, wee are to vnderstand it of this, though some vpon vnsure grounds doe disioine them.

[p] Fenest. de mag. Rom. cap. 21.

[q] Suet. Octav. Aug. cap. 27.

Cap. 15.

De Quæstoribus erarij.

THis office of the *Questors* seemeth not vnlike to a publique Treasurers, which collecteth the subsidies, customes, mony, yearely revenues, and all other paiments belonging to any state or corporation. And hence [r] *quoniam publicæ pecuniæ quærendæ præpositi erant*, they took their name *Quæstores*: Sometimes they are called *Quæstores Urbani*, to distinguish them from the provinciall *Quæstors*,

[r] Fenest. de Rom. magist. cap. 3.

which bare office in the *Roman* Provinces: sometimes they are called *Quæstores ærarii*, to distinguish them from those that were called *Quæstores parricidii*, or *rerum capitalium*, of which you may see more in the tract *de prætoribus*. [f] Lastly they were called *Quæstores ærarij*, to distinguish them from the *Tribunij ærarij*, that is, those Martial treasurers, or Clarks of the band, which did receaue the souldiers pay from these citty treasurers, and so pay it to the souldiers. The office of those city-Treasurers (then being at first but two) was to receaue all the city accounts; to disburse at all occasions of publique expenses; to take an oath of him that the souldiers had saluted by the name of *Imperator*, that he had truely informed the *Senate* both of the number of enimies slaine, as also of the number of citizens lost: otherwise he might barre the Empereur of his triumph. Moreouer whatsoeuer spoiles were taken in warre, they were deliuered vp vnto these city-*Quæstors*, & they selling them, laid vp the mony in the great Treasure-house called *Ædes Saturni*.

[f] Sig. de iure Rom. l. 2. c. 8.

Cap. 16.

De Tribunis Plebis.

THE [t] *Roman* commonalty finding themselues oppressed by the wealthier sort, departed vnto the *Aventine* mount, threatning the *Roman* nobility, that they would forsake their city, and neuer againe aduenture themselues in warre for the defence thereof, vnlesse they did finde some release and easement, from those excessiue payments of vse & interest vnto their creditours: yea beside the remission of their present debts, before they would returne vnto their city againe, they would haue certaine magistrates chosen, which should be [u] *Sacrosancti*, that is, such as might not be hurt or violently vsed, not so much as in words: and if any had violated that law, whereby they were made *Sacro-*

[t] I. Rosa in Epit. rerum, Rom.

[u] Rosin. ant. l. 7. c. 23.

sancti

sancti, then was he accounted *homo sacer*, that is, an excommunicate person, or such an one whose soule should be vowed vnto some God; insomuch that if any after had killed him, he should not be liable vnto iudgement: [x] *quoniam illius anima dijs devota amplius humani commercii non sit.* To those [y] magistrats the protection of the commons was committed who because they were at first chosen out of the *Military Tribunes*, therefore did they alwaies retaine the name of *Tribunes*, being called that they might be distinguished from the others, *Tribuni Plebis*, Protectours of the commons. At the first institution of them they were in number but two, as [z] some haue thought: [a] Others say fiue: afterward (as it is yeelded by all writers) they increased vnto ten. Their authoritie at first consisted chiefly in this, that they had power to hinder any proceedings in the *Senate*, which they thought might proue preiudiciall vnto the commons; so that they had not authority to enact any new decrees, as afterward by abusing their authority they did. [b] *Sed eorum autoritas magis in intercedendo, quàm iubendo.* And hence was it that in old time these protectours of the commons were not permitted to come into the *Senate*: but [c] they sate without at the dore, whether whatsoeuer was determined within the Senate was sent vnto them, to be perused by them, and if they did approue it, then did they subscribe a great *Roman* T, being the first letter of this word *Tribuni*. [d] The houses of these Tribunes stood open night and day, as a common refuge or place of succour for all that would come; [e] neither was it lawfull for them to bee absent out of the towne one whole day throughout the yeare.

x Alex. Gen. dier. l. 6. c. 14.
y Rosin. ant. lib. 7. c. 23.
z Pighius in suo Tyrannifug.
a Pomp. Læt.
b Stadius in Flor. lib. 3. c. 2.
c Pigh in suo Tyrannisfug.
d Rosin. ant. Rom. l. 7. c. 23.
e Pigh. in suo Tyranni fug.

CAP. 17.

De Ædilibus, & Præfecto annonæ.

WE may read of three sorts of *Roman* magistrats called *Ædiles*; the two first had their names *ab ædibus curandis*, hauing in their charge to repair

both temples and priuate dwelling-houſes which belonged vnto the citie. The firſt ſort were called *Ædiles curules, à ſella curuli*, from the chaire of ſtate, wherein it was permitted them to ride; and theſe were choſen [f] out of the *Senators*. The ſecond ſort were called *Ædiles plebeij*, and they were added vnto the former at the earneſt ſuit of the commons, they being to be choſen out of them. Where wee muſt note that they were not ſo added, that both ſorts ſhould rule at one and the ſelfe ſame time, [g] but that the *Curules* ſhould rule the one yeare, and the *Plebeij* the other. To theſe *Ædiles* it did belong, beſide the reparation of temples & priuate houſes, to looke vnto the weights and meaſures in common ſale: for they had power to examine *Actiones redhibitorias*, that is, ſuch actions, by vertue of which he that had ſold any corrupt or ſophiſticated wares, was conſtrained to take thē againe. Moreover they had the charge of the publique conduit or water-conueiances, of proviſion for ſolemne plaies, &c. Of the third ſort there were alſo two, who were in a manner Clarkes of the Market. [h] For vnto them belonged the looking vnto the victuals ſold in the market, and corne: Whence they were called by them *Ædiles cereales*; and [i] by the *Greekes* ἀγορανόμοι. This office, for ought that can bee collected out of thoſe that treat of it, differeth but little from his, whom the *Romans* called *Annonæ Præfectum*; onely this, the *Ædiles Cereales* were *magiſtratus ordinarij*, the *Præfectus, extraordinarius*, namely, [k] ſuch as was choſen onely in time of extraordinary dearths; he hauing for that time larger authority then thoſe ordinary clarkes of the market. For as it appeareth by *Roſinus* in the place now quoted, this *Præfectus* had power of himſelfe, to examine all ſuch caſes or queſtions as ſhould ariſe touching the dearth: as ſuppoſe the hoarding of corne, foreſtalling the market, &c.

f Philet. in l. 2. Cic. epiſt. fam. 10.

g Alex. Gen. dier. l. 4. c. 4.

h Alex. Gen. ibid.

i Pighius in ſuo tyranniſ.

k Roſin. antiq. lib. 7. cap. 38.

CAP. 18.

Cap. 18.

De Triumviris.

BEside that *Triumviratus Reip. constituendæ*, of which we spake before, there were divers kindes of *Triumvirates*; namely *Triumviri capitales*, three high Shireffes, who had the charge of prisons, and were to see malefactors punished: for which purpose eight *Lictors* did attend them. There were also [l] *Triumviri Mensarij*, three men, we may tearme them Bankers, who had authority to pay out of the common treasurie poore mens debts. Sometimes there were appointed five to this office, whence they were called also [m] *Quinqueviri Mensarij*, both being called *Mensarij* from *Mensa*, a table, whereon they told their mony. Another sort of *Triumviri* there were appointed to presse souldiers, whence they were called *Triumviri conquirendi iuvenes idoneos ad arma ferenda*. We read also of certaine *Triumviri*, which were elected as chiefe captaines to guid and conduct the people in transplanting colonies; and thence were they named *Triumviri Coloniæ deducendæ*: but sometimes for this purpose they elected seven, ten, or twenty, & so named them *Quinqueviri, Septemviri, Decemviri*, and *Vigintiviri Coloniæ deducendæ*. Three other sorts of *Triumviri* remaine, which were officers of small account; as the *Triumviri monetales*, three Masters of the Mint, who thence were called *Triumviri A. A. A. F. F.* that *Auro, Argento, Ære, Flando, Ferundo*; for they had the charge of coining the mony. Secondly, *Triumviri valetudinis*, Three Pest-men, which were to oversee those that lay infected with any contagious sickneſſe. Thirdly, [n] *Triumviri nocturni*, three Bell-men which were to walke the towne at night, and to giue notice of fire.

[l] Alex. Gen. dier. l. 3. c. 16.

[m] I. Camerar. in orat. Cic. pro Flacco.

[n] Alex. Gen. dier. l. 3. c. 16.

Cap. 19.

De Præfectis Ærarij.

Augustus Cæsar desiring for the better safety of the citty, to maintaine many bands of souldiers, which should alwaies be in readines for the defence of the Citty, desired of the city an yearely subsidie for the maintenance of those souldiers: but being denied it, hee built a certaine Treasure-house, which hee called *Ærarium militare*, whereinto he cast his mony for himselfe, and *Tiberius*; and promised to doe so every yeare. Afterward when he saw the Treasurie not to be enriched enough, either by that money which himselfe bestowed, or by the contributions of others he appointed that the twentieth part of all inheritances and legacies (except it were to the next of the kin, or to the poor) should fall vnto this Treasurie. For the charge and custody hereof he appointed three of those souldiers, which alwaies attended about him for the safegard of his person, calling them *Præfectos Ærarij*.

Cap. 20.

De Præfecto Prætorio.

ALL Captaines and Gouernours to whom the rule of any army belonged, were in ancient time called [o] *Prætores*; This word *Prætor* signifying then three chiefe officers among the *Romans*: First a *Consul*; secondly a L. chiefe Iustice; thirdly, a L. Generall in warre; all of them being called [p] *Prætores, quasi Præitores quoniam ire & exercitu præibant*. Answerable to which threefold acception, this word *Prætorium* hath three severall significations: sometimes it signifieth a Princes palace or manour house; sometimes a great

[o] Pancirol. in notitiam imper. orient. c. 5

[p] Pighius in Æquipet. compos.

great hall or place where iudgement was wont to be giuen; and lastly the L. Generall his pavilion in the campe; [q] from which last signification it is, that those souldiers that gaue attendance about that pavilion for the gard of their Captaines person, are sometimes called *Milites Prætoriani*, sometimes *Cohors prætoria*; [r] and he to whom the ouersight of these souldiers was committed was thence called *Prætorio præfectus*.

[q] Asconius in Verrinam 3.

[r] Fr. Sylv. in Catil. 2m.

Cap. 21.

De Advocato fisci.

FOR the right vnderstanding of this office, wee must first note a difference betweene these two words, *Ærarium*, & *Fiscus*. *Ærarium* was a common treasury belonging vnto an whole state or corporation, whence all publike and common expences are to be supplied. *Fiscus* was the Kings or Emperours private coffers: it may be englished the Kings Exchequer. The keeper thereof was called *Advocatus Fisci*. There are many other petty offices within the citty, which I haue purposely omitted, becausse there is but seldome mention of them in old autors; and as often as they are mentioned, their names doe explaine their office.

Cap. 22.

De præcipuis magistratibus provincialibus.

OVer the Provinces at first ruled certaine magistrats sent from *Rome*, by commission from the *Romane* Senate, called *Prætores*, whose office was to administer iustice vnto the Provinciall inhabitants, yea & if occasion serued, to make war also vpon their enimies: & this was the reason that the number of the *Prætors* did so increase alwaies

alwaies, namely accordingly as the number of Provinces did encreaſe. The wars & tumults in the Provinces ſometimes were ſo great, that the *Prætor* was not ſufficient both to manage war & execute iuſtice: wherevpon the *Senate* thought fit to ſend another magiſtrate into the Provinces, whō they called a *Conſul*, becauſe properly the managing of war belonged vnto the *Conſul*. So that there were at firſt two ordinary Provinciall magiſtrats, a *Conſul* to manage warre, and a *Prætor*, or L. chiefe Iuſtice to ſit in iudgement. And if theſe two by a ſecond grant from the *Senate* did continue in their office aboue the ſpace of an yeare, then were they called *Proconſules*, & *Proprætores*. But in proceſſe of time this cuſtome was altered. For then none could be *Proconſuls*, but thoſe alone who had beene *Conſuls* in *Rome*; neither could any bee *Proprætors*, which had not beene *Prætors* at *Rome*. Their manner being, that the next yeare after the expiratiō of their offices in *Rome*, they ſhould depart into ſome certaine Province, to beare the ſame offices againe, being not called *Conſules* or *Prætores* as before, but [s] *Proconſules* & *Proprætores*; and for this cauſe alwaies, ſo ſoone as the *Conſuls* had beene created, the *Senate* did appoint certaine Provinces for the *Conſuls*, which being appointed, the *Conſuls* did either agree betweene themſelues, who ſhould goe to the one, who to the other; and that was tearmed *comparare provincias*; or elſe they did decide the queſtion by lots, and that was tearmed *ſortire provincias*; howbeit ſometimes the *Senate* did interpoſe their authority, and diſpoſe the ſame. Vnder the Emperours the gouernours of ſome Provinces were appointed by the *Senate*, and the people, and thoſe were called *Proconſules*, and the Provinces, [t] *Provinciæ Conſulares*; others were appointed by the Emperours, and they were called *Proprætores*, and the Provinces *Prætoriæ Provinciæ*. For all this, which hath bin noted touching the Provinciall Magiſtrates, it is almoſt *verbatim* trāſlated out of [v] *Roſinus*. To which we adde this, namely that every *Proconſul* and *Proprætor* did v-

[s] Alex. Gen. dier. l. 3. c. 3.

[t] I. Camerar. pro L. Flacco.

[v] Roſin. ant. l. 10. c. 24.

ſually

vsually choose a Lieutenãt such a one as should be assistant vnto him in matters of gouernment; whom they called *Legatum*: So that this word *Legatus* signified three seuerall *Magistrats* amongst the *Romans*, two whereof may bee proued out of [y] *Sigonius*: first that it signified such a Lieutenant, or L. Deputy vnder a *Proconsul*, or *Proprætor* in a Prouince; secondly, that it signified such a one as is imployed in the deliuery of a message or embassage from one Prince or State to another; we commonly call them Embassadors. Lastly it signified a Lieutenant or chiefe Captaine in warre, whose place was next vnder the L. Generall. His office at the first institution was not so much to rule or command, as to assist the L. Generall in councell; whence *Polybius* commonly ioyneth these two together, πρεσβευτὰς καὶ συμβούλους, that is, *Legatos & Consiliarios*, that the latter word might expound the former. *Lipsi. de mil. Rom. l. 2. dial. 11.* Moreouer euery *Proconsul* and *Proprætor* had with them certaine Treasurers, called *Quæstores Provinciales*. These prouinciall Treasurers [a] were chosen by the *Roman* people commonly, namely such a number as the number of provinces did require. After the election, they betweene themselues did cast lots who should goe vnto the one, who vnto the other prouinces: [b] sometimes extraordinarily by vertue of speciall Act or decree, this or that speciall man hath obtained this or that Province without any lottery. By the way wee must note, that all Provinciall *Quæstors* could not be called *Proquæstores*, as all Prouinciall *Consuls* and *Prætors* were called *Proconsules* and *Proprætores*. [c] For these only were called *Proquæstores*, which did succeed these prouinciall *Quæstors*, when they did either die in their office, or depart out of the Prouince, no successor being expected from *Rome*: at which times in was lawfull for the *Proconsul*, or *Proprætor* to choose his *Proquæstor*. Moreouer there were beside these *Legati & Quæstores* [d] other military officers; such as are the *Tribuni militum*, *Centuriones*, *Præfecti*, *Decuriones*, together with other inferior officers, as their Secretaries, Bayliffs, Cryers, Seriants, & such like.

[x] Pomp. Læt. de mag. Rom.

[y] Sig. de iure prov. l. 2. c. 2.

[a] Sig. de iure Prou. l. 2. c. 3.

[b] Sigon. ib

[c] Rosin. Ant Rom. l. 7. c. 45

[d] Sig. de iurè Prou. l. 2. c. 2.

LIB. 3. SECT. 3.

Of the Roman Puniſhments.

CAP. 1.

Supplicia, Mulcta, Lex Ateria, Tarpeia. Ego ei vnum ovem mulctam dico &c.

TOuching the military puniſhmẽt, which bẽlonged to military diſcipline, it ſhall be treated of in its proper place. Here only of the Citty diſcipline, and the vſuall puniſhments exerciſed therein, which we may diuide thus. Puniſhments publikely inflicted on malefactors are either *Pecuniarie mulcts*, or *Corporall puniſhments*; the *Pecuniary mulcts* were of two ſorts: either an appointed ſumme of mony was required of the party guiltie, and then it was called *Mulcta*: or his whole eſtate was ſeaſed on, & then it was tearmed a *Confiſcation* of his goods. The *Mulct* was twofold, the one tearmed *Mulcta ſuprema*, the other *Mulcta minima*. Of both theſe [a] *Gellius* writeth thus: *Suprema mulcta erat duarum ouium, & triginta boum, pro copia ſcilicet boum, & penuria ouium: ſed cùm eiuſmodi mulcta pecoris, armentiq; à magiſtratibus dicta erat, adigebantur boues oueſq; alias pretij parui, aliàs maioris, eaq; res faciebat inæqualem mulctæ punitionem. Idcirco poſtea lege Ateria conſtituti ſunt*

[a] Gellius, l. 11.

sunt in oues singulas æris deni, in boues æris centeni : Minima vero mulcta fuit ouis vnius. Moreouer as he obserueth in the same place, whensoeuer the Magistrat did set a fine or Mulct vpon the offenders head, hee vsed the word *Ouis* in the Masculine gender: as, *Ego ei vnum ouem mulctam dico, &c.* The law which *Gellius* calleth *Ateriam legem* : [b] *Festus* calleth *Legem Tarpeiam*, because *Aterius* enacted it, when he was Colleague or fellow-Cõsul with *Tarpeius*. Likewise we may take notice of the clemency vsed in those times. It was provided by the law, that seeing there was great plenty of Oxen then of Sheepe, and to be fined an Oxe, was not so much as to be fined a Sheep, therefore the Magistrate pronouncing the Fine [c] *Bouem prius quàm Ouem nominaret, vt innotesceret Romanis mitiores semper pœnas placuisse.*

[b] Festus in voce peculat.

[c] Plin. lib. 18. cap. 3. It. Alex. ab Alex lib. 3. cap. 5.

Cap. 2.

Capitis diminutio, maxima, media, minima, Aqua, & Igni interdici. Proscriptio, Lata fuga, Deportatio ἐκ τῆς πόλεως, συμπίνειν, Ærarij, In ærarios relati, Religatio, Lanij cum tintinnabulis.

THE corporall punishments are either such as were *Capitall*, depriuing a man of his life: or *Castigatory*, such corrections as serued for the humbling and reforming of the offender, not for the destroying of him. *Capitall* punishments were sometimes taken in a ciuill acception, for the losse of freedome, which the *Romanes* called *Capitis diminutionem*, Disfranchising, because in euery Free-man thus disfranchised, one head of the corporatiõ was as it were cut off: sometimes it is taken for the losse of ones life, & this they called *Vltimum supplicium*. That disfranchising called *Capitis diminutio*, was [d] threefold. *Maxima, Media, & Minima.* The least degree was, when the *Censors* pulled a man frõ an

[d] Rosin. ant. Rom. l. 9. c. 3.

an higher Tribe, downe to a lower and leſſe honorable, or when by any cenſure they diſabled a man from ſuffraging, or giuing his voice in the publike aſſemblies: ſuch as were thus in the laſt manner puniſhed, were tearmed *Ærarij*, and *In ærarios relati*: [e] *quia omnia alia iura ciuium Romanorum, præterquam tributi & æris conferendi amiſerunt.* This kinde of puniſhment, as it may ſeeme, was many times exexerciſed for irreuerend geſture, or ſpeeches vſed by ſuch as were queſtioned by the *Cenſors*. Three ſeuerall examples are noted by [f] *Gellius*; the laſt is this: *P. Scipio. Naſica*, and *M. Pompilius* being *Cenſors*, taking a view of the *Roman* knights obſerued one of them to haue a leane ſtarueling horſe, himſelfe being fat, and in good plight, wherevpon they demanded the reaſon why his horſe was ſo leane, himſelfe being ſo fat: his anſwere was. *Quoniam ego, inquit, me curo; equum Statius meus ſeruus.* *Diminutio media* was an exilement out of the Citty, without the loſſe of ones freedome: [g] It was commonly ſet downe in this forme of words: *Tibi aqua & igni interdico.* And it ſeemeth by [h] *Cœlius Rhodiginus*, to bee all one with that kinde of baniſhment, which the *Romans* called *Proſcriptio*; though it cannot be denied, but that *Proſcriptus* ſome times ſignifieth only ſuch a one, whoſe goods are ſet at ſale to ſatisfie his creditors, becauſe hee will not appeare in the Court, the forme thereof is thus. The Creditours hauing obtained leaue of the Lord chiefe Iuſtice to proceed in this maner, they committed the ordering of the ſale to one principal Creditour and he was called ſimply *Magiſter*; and he in the name of all the reſt, ſolemnely proclaimed in the chiefe places of the Citty in forme as followeth. [i] *Ille debitor noſter in eiuſmodi cauſa eſt, vt bona eius diuendi debeant, nos creditores patrimonium eius diſtrahimus: quicunq; emere volet, adeſto.* But for the reconciling of both opinions, we may tearme the firſt to be *Proſcriptionem hominum:* the other *Proſcriptionem bonorum:* which diſtinctiõ being not obſerued, breedeth a great confuſion in the Authors that treat of this puniſhment; and becauſe

[e] Sig. de iure Rom. l. 1. c. 17.

[f] A. Gell. noct. Attic. lib. 4. cap. vlt.

[g] Camerar. in orat. Cic. pro Muræn.

[h] Cœl. Rhod. lib. 15. cap. 17.

[i] Roſin. ant. lib. 9. cap. 12.

becauſe both was performed by ſolemne and publiquē proclamations, hence the name *Proſcriptio* agreed as well to the goods confiſcated, as to the perſons baniſhed: according to that, [k] *Quoniam eorū nomina in publico ſcribebantur, hinc proſcribi dicebantur.* Hence the [l] *Grecians* vſe not only the word προγράφειν, but alſo συλλυβδην, to ſignifie the act of *Proſcription*, becauſe they wrought in a publique pillar the faults and offences of ſuch as were thus baniſhed. But to proceed without farther digreſſion. *Diminutio maxima* was the loſſe both of the city, & the freedome; & this I take to be the ſame which in other tearmes was called *Lata fuga*, or *Depotratio*, namely a perpetuall exilement: all ſtanding in oppoſitiō to that other kinde of baniſhment, called *Relegatio*, which was the exilement * only for a ſeaſon, happily for fiue yeares &c: ſee *C. Rhod. lib. 10. cap. 5.* though I deny not but that *lata fuga* was ſo called not onely in reſpect of the duration of time, it being a perpetuall baniſhment: but alſo in regard of the places ſo generally prohibited, [m] for he that was thus baniſhed, was tied and limited to one peculiar country, all other places in generall being forbidden him. Thoſe puniſhments that depriued of life in ordinary vſe, and of which there is moſt frequent mention in *Roman* Authors, are theſe which follow. *Furca Crux, Carcer, Culeus, Eculeus, De rupe Tarpeia deiectio, Scalæ, Gemoniæ, Tunica. Damnatio in gladium, in ludum, ad beſtias*: In generall we are to note, that the execution was without the gates of the city, to prevēt the noyſomnes which ſuch abundance of bloud might occaſion; [n] for which reaſon the executioner dwelt without the City. Likewiſe thoſe that were adiudged to death, when they went to the place of execution, a certaine little bell was tyed about them, that by the ſound thereof, the people might beware of touching the condemned perſon, becauſe the very toueh of him was counted a kinde of pollution: this [o] *Turnebus* obſerueth out of *Zonaras*: and from hence the executioners are called [p] *Lanij cum tintinnabulis*. And for this reaſon [q] it was, that a little bell

[k] Fr. Matur. in Philip. orat. 5.

[l] Suidas in voce συλλ.

* Adde quod edictū quamvis immite minaxq; Attamē in pœnæ nomine lene fuit. Quippe relegatus, non exul dicor in illo. Ovid. de triſt. l. 2. Eleg. 1.

[m] Tholoſan. ſyntag. iur. vniuerſ. lib. 31.

[n] Plaut. Caſ. 2.6.

[o] Turn. adv. lib. 11. cap. 21.

[p] Plaut. pſeud. 1.3.

[q] Roſin. ant. l. 10. cap. 29.

bell and a scourge was hanged vp in the hindmost part of the chariot, wherein the Lord generall did ride in his triumph, a publike officer which rodde with him in the same chariot, now & then plucking him behind, & bidding him looke back, vsing this forme of words,[f] *Respice post te, hominem memento te*, that is, Sir looke behind you, remember your selfe to bee but a man. For the sight of the scourge and bell serued to put him in minde, that notwithstanding, his present triumph and acclamations[g] his after-miseries might be such, that he might be punished not onely with whipps, but euen with death it selfe.

[f] Tertul. Apolog. cap. 33.

Cap. 3.

Furca. Furcifer. Supplicium more maiorum, & heisma.

AVncient autors which do write of the *Roman furca*, do rather mention it, then explaine it, but if we diligently obserue what they speake of it, we shall finde the vse thereof to haue beene three fold. The first ignominious. which[a] was when the master forced the seruant for small offences *furcam circa vrbem ferre*, to carry this *furca* vpon his shoulders about the city, confessing his fault and admonishing others to beware of the like offence, and[b] hence such a seruant was afterward called *furcifer*; and here I thinke was vse of those *stimuli* or goades, whereof I shall speake more in the chapter following; namely that when the party thus to be punished dragged back, and shewed himselfe vnwilling, then did the executioner prick him forward with these kinde of goades. The second sort was penall, when the party hauing the *furca* on his neck, was ledde vp and downe the Cirque or some publike place, and on the way to bee whipt, but not vnto death; [c] thus *C. Matienus damnatus sub furca diu virgis cæsus erat, & sestertio nummo venijt.* He was after-

[a] Isidor. orig. lib. 10.

[b] Plutarch. in Coriol.

[c] Epit. Liuij dec. 6. lib. 5.

afterward sold, and therefore died not vnder the punishment. The third sort was penall to, but in an higher degree; namely, when the malefactor hauing his head tastned to the *furca*, was whipt vnder it vnto death; and this was by a peculiar name called [d] *supplicium more maiorum*. This yet differed from that beheading with an axe which was in vse among the *Romans*, and called by the *Grecians* πελεκισμὸς from πέλεκυς signifying an axe or hatchet; it differed I say from this, because howsoeuer there were in this σανιδῶν προσδήσις, a tying the party to a stake or post, and also μαστίγωσις, a whipping, in both which it agreed with the former puuishment, yet herein they differed, because in the former they were whipped vnto death, in the latter they were after their whipping beheaded with an axe, as appeareth by the [e] execution of *Antigonus* the King of the Iewes. But to proceed in the description of the *furca*, the forme thereof I take to be like the beame of a wayne vnto which the yoakes are fastned; it resembleth a forke, & the *furca* is called ξύλον δικλῆν, δικρῶν, δίδυμον, *id est*, *lignum duplex*, *bicornutum*, *geminum*, in english a forked piece of timber; there is no such piece throughout the whole wayne as the forme of waynes is in these daies, but only the beame thereof [f] *Plutarch* treating of the *furca*, saith that it is, ξύλον ἁμάξης ᾧ τὸν ῥυμὸν ὑπερείδουσι, that is, a piece of timber about the wagon or wayne, wherewith they vpheld the beame; and he addeth, that what the *Grecians* call ὑποστάτην σήρισμα, that the *Romans* call *furca*: now *Hesychius* describeth σήρισμα to be τὸ δικρῶν ὃ πρὸς ὑποβιάσει τῷ ἄξονι ἁμάξης ζυγῷ, that is, the forked piece of timber, which they put vnder the yoak of the wayne; correct *Plutarch* by *Hesychius*, & for τὸν ῥυμὸν reade τὸ ζυγὸν, & you haue in both the description of the beame in the wayne. Some thinke that *Plutarch* compareth the *furca* to a certaine forked peice of timber, wherewith the wayne was vpheld whiles it was vnloaded, but how this can stand with *Hesychius* his description of σήρισμα, I am yet to learne; notwithstanding if we admit this interpretation, that which

[d] Sueton. in Ner. 49.

[e] Dio. lib. 49.

[f] Plut. in Coriol.

which I would hence inferre, is rather confirmed, then any way weakened: namely that the forme of the old *Roman furca* was forked; neither do there appeare any testimonies so evident to me, as to persuade that among the auncient *Romans* any other was in vse. True it is, that in after ages the forme thereof was the very same with our gallowses which are now in vse, and this happily beganne, when the vse of crucifying was interdicted, which interdiction we read first to haue taken place in [g] *Constantines* time.

[g] Sozom. eccles. hist. lib. 1. cap. 8.

Cap. 4.

Crux. Seruile supplicium. Titulus.

CRucifixion hath beene a punishment in auncient vse among the *Romans*, it was abrogated by *Constantine*. It was a death that commõly seruants were sentenced vnto, seldometimes free-men; whence it is many times noted out by the name of *seruile supplicium* by *Tacitus*, yet [h] sometimes freemen though of the baser sort, and for notorious offenses were adiudged to this kind of death: nay a cleare example hereof we haue in that * Guardian which *Galba* crucifyed, for poysoning his ward; for the Guardian calling for the benefit of the law, and avouching in his plea, *That he was a Roman cittizen*. *Galba* as if he would allay his punishment with some comfort and honour, commanded the crosse already made to be changed, and another to be rared farre higher then the ordinary, and the same laid ouer with a white colour. Those which were thus to be punished, they bore their crosse vpon his shouleers to the place of execution. [i] *Malefici cùm ad supplicium educuntur, quisq; suam effert crucem.* [k] *Artemidorus* is as plaine Ἔοικε γὰρ ὁ σταυρὸς θανάτῳ, καὶ ὁ μέλλων προσπλέξας, πρότερον αὐτὸν βαστάζει, that is. The crosse is like vnto death, and he which was to be crucified did first beare it. The party that suffered this kinde of death was first stripped

[h] Vid. Lipsi. de cruce. lib. 1. cap. 11.

* Suet. Galb. 9.

[i] Plut. de sera numinis vind.

[k] Vid. Lipsi. de cruce. l. 2. c. 5.

ped of all his clothes, for he suffred [l] naked; then was he fastned vnto the crosse and that commonly with nayles, the Greek word προσήλωσις clearely evinceth as much, we may render it *Clauifixio.* Now that the equity of the proceeding might clearly appeare to the people, the cause of his punishment was written in capitall letters, hence [m] *Dio* speaketh of a seruant dragd to the crosse, μὴ γεγμάτων τὴν αἰτίαν ἐν καταστάσει δηλούντων, that is, with letters declaring the cause of his death. This inscription was called αἰτία *Mat. 27. 37.* It was also called τίτλος *Ioan. 19. 19.* from the latine word *titulus* vsed in the same sense. And sometimes ἐπιγραφὴ τῆς αἰτίας. *Marc. 15. 26.* or simply ἐπιγραφὴ *Luc. 23. 38.* [n] *Tertullian* & [o] *Suetonius* calleth it *elogium.* The like kinde of publishing the cause, either by an inscription, or by the voice of a common crier was not vnusuall in other capitall punishments; as *Attalus* the Martyr was led about the Amphitheatre, πίναξ καὶ αὐτὸν προάγοντος, ἐν ᾧ ἐγέγραπτο ῥωμαϊστὶ, οὗτος ἐστὶν Ἄτταλος ὁ χριστιανός. i. A table being carried before, in which it was written in latine, *This is Attalus the Christian.* That of [q] *Suetonius* his is not much vnlike. *Patremfamilias detractum è spectaculis in arenam, canibus obiecit, cum hoc titulo: Impiè locutus Parmularius.* What is meant in this place by *Paterfamilias* and *Parmularius*, hath been already declared in the chapter of Fencers. Moreouer such as were to be crucified, they were also whipt before they suffered. That same *horrendum carmen* clearely evinceth as much; the parts whereof are two first: [r] *Verbera intra aut extra pomerium*, secondly: *Arbore infelici suspendito.* This whipping was sometimes *sub furca*, for this * *Valerius* is plaine. *Cùm seruum suum verberibus multatum sub furca ad supplicium egisset*: sometimes *ad columnam. Artemidorus* is cleare in this, προσδεθεὶς κίονι, πολλὰς ἔλαβε πληγάς, that is, being tied to the pillar, hee receaued many stripes. Happily [t] *Plautus* alludeth to the same.

[l] Artemidor lib. 2. 58.

[m] Vid. Lipsi. de cruce l. 2. c. 11.

[n] Apol. cap. 2.

[o] Sueton. in Calig.

[p] Euseb. eccl. hist. lib. 5. c. 1.

[q] Sueton. Domit. cap. 10.

[r] Liv. lib. 1.

* Valer. Max. lib. 1. cap. 7.

[t] Plaut. Bacch.

----*Abducite hunc*
Intrò atq; adstringite ad columnam fortiter.

[t] Prudentius Hieronym. Beda. vid. Lipſ. de cruce. l. 2. c. 4.

Yea the auncient [t] *Fathers* ſay that our bleſſed Saviour was thus whipt: touching the place or manner the ſcripture is ſilent, only that he was whipt it teſtifieth, & that with ſcourges. Τὸν δὲ Ἰησοῦν φραγελλώσας παρέδωκεν ἵνα σταυρωθῇ. *Mat. 27. 26* This fore-whipping I take to be a matter vnqueſtionable, but that they ſhould be whipt on the way towards the place of execution, I much doubt; much more that they ſhould be goaded on the way with pricks and goads by the Executioner. That there was [u] *ſtimuleum ſupplicium*, a kinde of puniſhment with pricks and goades is euident; and hence commeth that phraſe *Stimulo fodere;* and hence that other phraſe of Kicking against the pricks. Parrallell to which is that of *Plaut. Truc. 4. 2. Stimulos pugnis cædere.* But this kinde of puniſhment I take to haue beene exerciſed only by Maſters towards euill ſeruants; and that not as præparatory to death, but for their reformation in future times: whence by way of contempt, a ſeruant thus handled was tearmed [*] *Carnificinum cribrum*, becauſe he had his backe ſo boared with thoſe pricking inſtruments, that it looked like a ſieue full of holes. Otherwiſe, if we vnderſtand it as a puniſhment impoſed by publique authoritie, we may ſay, that thereby is denoted a certaine puniſhment, exerciſed towards theeues in time of their examination, that by the pricking and goading of them, the truth might bee confeſſed; [*] for to that ende theeues were thus tortured, and thence were they called *Centrones*, from κέντρον, *Stimulus*. Laſtly we muſt remember that theſe three words *Furca*, *Crux*, and *Patibulum*, are many times vſed promiſcuouſly, ſignifying the whole croſſe on which malefactors ſuffred: but in ſtrict propriety of ſpeech, *Furca* ſignifieth that forked inſtrument of which we treated in the former chapter: *Crux*, that erect part of the croſſe ſtanding vpright: and *Patibulum* the thwart peece of timber vpon the top of the croſſe: yet ſometimes alſo *Patibulum* is taken for the *Roman Furca*, whence *Patibulatus* and *Furcifer* are vſed as words equivalent, and in both ſenſes it may

[u] Plaut. Mil. 2. 6.

[*] Plaut. Moſt. 1. 1.

[*] Cœl. Rhod. lect. antiq. lib. 10. cap. 5.

may borrow its name from *Pateo*, to lie open; because as the malefactors hands were spread abroad being fastned to the thwart peece of timber vpon top of the crosse: so were they likewise spread abroad vnder the *Furca*, his two hands being tyed to the two forked ends thereof.

Cap. 5.

Carcer, Ergastulum Tullianum, Robur. Mala mansio, Nervus, Collumbar, Numella, Codex.

HOwsoeuer *carcer* & *ergastulum* are vsed promiscuously by moderne writers, yet if wee diligently enquire vnto each words origination, and how they haue beene vsed by more ancient autors, wee shall finde them thus differenced. *Ergastulum* was a prison much resembling our house of **Correction**, into which servants only were cast: *Carcer* a more publike prison, vnto which men of better ranke & fashion vpon iust occasion were committed: secondly, the power of sentencing any servant to the *Ergastulum*, was proper and peculiar to the master of the servant, without approbation from publike authoritie: but the power of the committing to the prison called *Carcer*, was onely in the publique magistrate: thirdly *Ergastulum* tooke away only the libertie and pleasure of life: *Carcer* life it selfe. The word *Carcer* hath his name *à coercendo*, from restraining men of their liberty.[a] It had two principal parts, the one called *Tullianum*; the other *Robur*; besides many other roomes wherein men were kept close prisoners, these two places were assigned for execution. In that which they called the *Tullianum* (we may english it their **Dungeon**) they strangled malefactors.[b] It had its name from *Servius Tullius* a *Roman* King, the first inventer & autor thereof. Of this *Salust* writeth, *Est locus in carcere quod Tullianum appellatur vbi paulatim*

[a] Sigon. de iudic. lib. 3. c. 17.

[b] Sigon. ibid.

tim aſcẽderis ad læuam, circiter duodecim pedes humi depreſſus: eum muniunt vndiq; parietes, atq; inſuper camera lapideis fornicibus iuncta, ſed inculta tenebris, odore fœda, atq; terribilis eius facies eſt. In that other place which they called commonly *Robur*, ſometimes [c] *Robuſtus Codex*, ſometimes [d] *cuſtodia lignea*, ſometimes [e] *Italum robur*, (our engliſh phraſe ſtrong hold fitly anſwereth it) they broke malefactors necks, by a kinde of præcipitation or tumbling them headlong, [f] from a certaine ſtock of a tree faſtned there in the earth; vnto this *Tully* alludeth. *Quæro fregeris ne in carcere cervices illi ipſi Vectio.* But more expreſly *Plautus*. [g] *At ego faciam vos ambos in robuſto carcere vt pereatis*; thoſe that had the chiefe ouerſight in ſuch executions were called *Triumviri capitales*, that is, high Sherifs. The whole proceeding is ſet down by *Valerius*. [h] *Mulierem damnatam Prætor Triumviro necandã in carcere tradidit, quam receptam is qui cuſtodiæ præerat, miſericordiâ motus non protinus ſtrangulauit; aditum etiam filiæ dedit, ſed diligenter excuſſa, ne quid cibi inferret, exiſtimans futurum, vt inediâ conſumeretur; cùm verò animadvertiſſet, filiam matrem lactis ſui præſidio ſuſtentantem, rem ad Triumvirum, Triumvir ad Prætorem, Prætor ad conſilium iudicum pertulit, & remiſſionem mulieri impetravit.* It is much controverſed among interpreters, what that kinde of puniſhment was which they tearmed *Malam manſionem*, wee may engliſh it little eaſe: Some vnderſtand hereby a certaine deepe dungeon, made in the forme of a pit or well, called therefore in latine *puteus*; but this as it ſeemeth by that of *Plautus*, was a puniſhment proper and peculiar to theeuiſh cookes. [i] *Coqui abſtulerunt, comprehendite, vincite, verberate, in puteum condite.* Others vnderſtand hereby a cloſe priſon, which becauſe of its ſtraightnes & cloſenes they called *arcã*, a cheſt: the vſe of this priſon, was for the ſafe keeping of ſuch who were afterward to be examined of farther matters; though ſometimes other offenders were caſt into the ſame. Of theſe primes *Tully* ſpeaketh, [k] *Subito arrepti in quæſtionem, tamen ſeparan-*

[c] Plaut. pæn. 5.3.
[d] Plaut. pæn. 5.6.
[e] Hor. lib. 2. od. 13.
[f] Turneb. adv. lib. 23. cap. 21.
[g] Plaut. in Curc. act. 5. ſc. 5.
[h] Valer. l. 5. c. 4
[i] Plaut. Aulul. 2.5.
[k] Cic. pro Milone.

parantur à cæteris; & in arcas conijciuntur, ne quis cum his colloqui possit. Another kinde of prison there was called *Sextritium*, thus it is commonly rendred in Latine, but the Greeke word is σεξτήριον, and accordingly [a] *Turnebus* renders it *Sestertium*, being of opinion that it was so called from the quãtitie of ground it contained, namely two acres and halfe. *C. Rhodiginus* thinketh that *Spoliarium* and *Sextritium* were not places vnlike, but herein not hee alone, but diuers others haue bin deceaued: for *Sextritium* is apparently a place of [b] execution, where those were executed whom the *Roman* Emperours adiudged to death; now whether that *Spoliariũ* were a place of punishment I much doubt. What in Latine we call *Spoliarium*, that the Greeks tearmed ἀποδυτήριον, both doe signifie primarily little cells or chambers neere adioyning to the bathes, where such as washed themselues laid vp their cloathes: In a borrowed sense, both are vsed to signifie chambers and cells adioyning neere vnto the Amphitheatre or fencing place, wherein the fencers did put vp their clothes in time of fight, and becausse such as were wounded in fight were carried into those chambers, where they languishing with much pain at last notwithstãding expired for the most part, & that not without much torturing of the Chirurgion, hence such a Spittle-house is also called *Spoliarium*. Thus much *Seneca* seemeth to intimate, [c] *Numquid aliquem tam cupidum vitæ putas, vt iugulari in spoliario, quàm in arena malit?* Whereby it appeareth, that *Spoliarium* was not a prison vnto which malefactors were iudged, but rather as I said a kinde of Spittle-house. Other kinde of punishments there were of a neere likenesse with imprisonments, and casting into the pillory, laying one by the heeles, &c. Of these little is spoken more than the very names; of this sort those that do most commõly occur in autors, are these. *Nervus, Collumbar, Numella, Codex. Nervus* is generally thought to resemble our Stocks, [l] some take it to bee made of wood, others of yron, [m] *Nervum appellamus ferreum vinculum, quo pedes impediuntur*

[a] Turn. adv. lib. 3. cap. 18.

[b] Plutarch. in Galba.

[c] Sen. ep. 94. De spoliario Vid. Lipsi. Sat. 1. 18.

[l] Vid. Taubman. in Plaut. Aulul. 4. 10.

[m] Festus. Vid. Lam. in Plaut. Aulul. 4. 10.

pediuntur: quanquam Plautus eo etiam vinciri cervices ait. Two of the last seeme to haue some resemblance with our Pillory. *Collumbar* had its name from *Collum*, because the necke was chiefly pained in this kinde of punishment. *Numella* was also a kind of Pillory, being so called *quasi* [n] *Nuella, quòd qui eo vinculo constricti erant, nuere demissoq; capite esse cogebantur.* *Codex* was a certaine block or Clogge, so tied vnto the malefactors, that they vsed it as a stool to sit on; the vse of this may seeme to haue beene only in priuate houses, thereby to keepe evill seruants the closer to their work; of this *Iuvenal* speaketh *Sat. 2.*

n Turneb. adverf. l. 23. c. 21.

Horrida quale facit residens in codice pellex.

[o] *Turnebus* describeth it thus. *Codex est ligneus stipes, quem alligati serui, qui deliquerant trahebant, cuiq; insidebant vincti*

o Turneb. ibid.

Cap. 6.

Culeus.

THE crime which in Latine we call *Parricidium*, is murder practised by father or mother towards the children, or by the children towards either of the parents; It had in old times a larger acception, signifying any murder betweene man and man, and then it was called *Parricidium, quia par parem occiderat.* The word taken in his first and proper signification, denoted a fact so vnnaturall, that neither [y] *Solon* nor *Romulus* would determine any punishment against such offenders, because they thought none so wicked as to commit it; and the prohibition it selfe might proue a kinde of irritation, to prouoke some to the commission of that crime, which otherwise would neuer haue entred into their hearts. But the wickednesse of the aftertimes, enforced lawgiuers to inuent a sharpe punishment against such vnnaturall offences. The punishment decreed against Parricides in [z] *Senecaes* age, was, that such malefactors should be sowed

p Cic. pro Sext. Roscio.

q Senec. lib. 5. controv. 4. in fine.

sowed vp in a leatherne sack together with serpents, and so cast into the sea; afterward there were sowed vp in the same sack an ape, and a cock, and at last a dogge. Whence *Iuvenal Satyr. 8.*

Cuius supplicio non debuit vna parari
Simia, nec serpens vnus, nec culeus vnus.

[a] *Modestus* describeth the manner thereof thus. The Parricide being first whipt with rods vntill the bloud came, then was he sowed vp in this sacke called *Culeus*, together with a dogg, a cock, a serpent, and an ape.[b] They would not cast him naked into the sea, least the water thereof thereby might be polluted, wherewith all other pollutions in their opinion were expiated.

[a] Digest. lib. 48. ad legem Pomp. de parricid. vid. Cœl. Rhod. l. 11. c. 21.
[b] Cic. pro Sext Rosc.

Cap. 7.

Eculeus. Lamina. Vngulæ. Fidicula. σχινισμὸς.

Eculeus had its denomination from *Equus*, *quasi Equleus*, as may be collected from that description which [c] *Turnebus* giueth. But not so much from the positure or situation of the offenders body on the engine as *Turnebus* would haue it, for he in no wise resembled a man on horseback; but rather from the hoising or horsing vp of the party fastned with ropes vnto the *Eculeus*, so that his hands being tied fast at the vpper part of the engine, and his feet at the neather part, hee was hoysed vp into the ayre like vnto one fastned on a crosse. The forme of the *Eculeus* I cõceiue thus; it was not one entire stake, but rather two long peeces of timber ioyned together in forme of a stake, ioyned together I say, by the meanes of a vice or scrue; and the reason hereof was that by helpe of this scrue, the vpper part of the engine might be lifted vp to the racking and torturing of the malefactor, or let downe to the easing and remitting of his paines as should seeme good to the executioner, or other officers, who

[c] Turneb. advers. lib. 4. c. 3.

who now and then would grant some remission and respite in hope of a confession. For in the first institution, the maine end of this torture was to worke out the knowledge of the truth. Neither did they alone racke the parties ioints in this kind of punishment, but to enforce him vnto a confession by an augmentation of his paine, they did often with hot plates & iron pinsers, burne and teare his flesh from his sides, and all this we shall finde warranted by [d]*Sigonus*, whose words I haue written downe at large. *Eculeus catasta fuit lignea, cochleata, ad intendendum ac remittendum apta, atq; ad torquendos homines, vt facti veritas eliceretur instituta. Tormenti verò genus erat huiusmodi, vbi catastæ huic brachia pedesq; eius, qui torquendus erat, nervis quibusdam, quæ fidiculæ dicebantur alligauerant, tum catasta intenta atq; in altum erecta, vt ex eo quasi ex cruce quadam miser ille penderet, primùm compagem ipsam ossium illius diuellebant, deinde candentibus eiusdem corpori laminis admotis, atq; bisulcis vngulis ferreis lateribus laniatis doloris acerbitatem augebant.* And thus wee see what the vse of those *Laminæ* and *Vngulæ* were, namely that they were not severall torments of themselues, but adiuncts to this, to encrease the paine. The *Eculeus* was sometimes called [e] *lignum tortorium*: sometimes [f] *stipes noxialis*. The torturing engine called *Fidiculæ* was not much vnlike. *Fides* signifieth the string of any musicall instrument, and the engine had its name from the strings & cords wherewith men were tortured vpon it; of this [g] *Turnebus* writeth. *Fidiculæ quæ in tormentis numerantur, mihi videntur lasciuia quadam ioci nomen inuenisse, quod vt in fidibus nervi item quoq; vt nervi hinc & inde: multis funibus homines distendebantur.* The torment σχοινισμὸς vsed by the *Gracians*, was either this same or very like.

[d] Sigon. de Iud. l. 3. c. 18.

[e] Sozom. hist. Eccles. lib. 5.

[f] Prudent. in hymno Vincent. Martyr.

[g] Turneb. adu. lib. 4. cap. 3.

CAP. 8.

Cap. 8.

De rupe Tarpeia deiectio. De lapide empti. A furca redempti. Scalæ Gemoniæ. Tunica. Damnatio in gladium, in Ludum, ad beſtias.

MAlefactors for notorious offences were tumbled downe headlong from a certaine rock in the *Tarpeian* Mount: This kinde of puniſhment was called either ſimply *Deiectio è ſaxo*; or *Deiectio è Tarpeia rupe.* In ſome caſes notwithſtanding, by the interceſſiō of friends, or ſome other meanes, pardons were ſometimes obtained for the condemned perſons, whereby they were freed frō death howſoeuer the diſgrace and infamy cleaued euer after vnto them, and therefore they were tearmed *de lapide empti*: which phraſe [h] *Cœlius Rhodiginus* hath parallel'd with that, *a furca redempti*, that is, *ſaued from the gallowes.* In the *Aventine* Mount was a place of like nature, called *Scalæ Gemoniæ*: certaine ſtayres whether condemned perſons were dragged, & ſo caſt headlong into the riuer *Tiber.* *Cœlius Rhodiginus* ſeemeth to be of another opinion: [i] who deſcribing this puniſhmēt, ſaith, that an hook was thruſt into the malefactors throat, and ſo hee haled by the Executioner vnto theſe ſtayers, where hauing his thighs broken he was burnt. Furthermore he addeth, that they were called *Scalæ Gemoniæ*, or *gradus Gemonij*, becauſe, as ſome are of opinio, the firſt that ſuffered this kinde of puniſhment his name was *Gemonius*: or as others would haue it, becauſe it was *locus gemitus, & calamitatum.* If we admit that malefactors were here burnt, then may we thinke this puniſhment *ad Scalas Gemonias*, to be the ſame, which ſometimes was called *Tunica.* The reaſon of which name was, becauſe perſons thus to be burned, were clad with a coat dawbed in the inſide with pitch and brim-

[h] Cœl. Rhod. ant. l. 25. c. 22.

[i] Cœl. Rhod. lib. 10. cap. 5.

stone. Thence is that of [k] *Seneca, Cogita illam tunicam alimẽtis ignium & illitam & intextam.* This giueth light to that of *Iuuenal. Sat. 8. Tunica punire molesta.*

[k] Sen. ep. 14.

[l] Tertul. ad Martyr.

[l] *Tertullian* also mentioneth it in this sense. To these may be added two other punishments vsually inflicted vpon fugitiue seruants, but yet not so restrained vnto them, as that they were not sometimes extended to other malefactours. The first is *Damnatio in gladium.* A condemning one into a fence-schoole, there to be traine d vp in the art of fencing, vn till some publike prizes were plaied, at what time such a cõdemned person was to fight for his life. [m] *Capitolinus* calleth it *Ad gladij ludum deputationem.* But *Vlpian*, as [n] *Lipsius* elsewhere obserueth, differenceth these two phrases thus. He that was *ad gladium damnatus*, was either presently put to death, or else at fartheſt within the compasse of an yeare: but he that was *damnatus in ludum*, had not death so peremptorily sentenced vpõ him; if he scaped the danger of those publike prizes, & alwaies got the vpper hand of his aduersaries, at three yeares end, he receaued the *Rudem*, or wand, which was a token of discharge from those bloudy combats: yea at fiue yeares end, he receaued the *Pileum*, or cap, which was a token of his infranchisement or freedome in the citty. The second sort was *Damnatio ad bestias.* A condemning of a mã to fight for his life with beasts; as with Beares, Leopards, Lions, &c. The persons thus condemned were tearmed [o] *Bestiarij.* A memorable example thereof we haue in a certaine *Roman* seruant called *Androclus*, [p] who hauing runne from his master liued in a wilderneſse, and whiles hee rested himselfe in a denne, there came a fierce Lyon vnto him, moaning and grieuing becaus of a stumpe of a tree which stuck fast in his foot; *Androclus* at first beganne to be affrighted, but the Lion comming neerer & neerer vnto him, and laying his foot on the mans lap, intimated his desire of helpe from him, which when the man perceaued, he plucked out the stumpe, and gaue him what ease he could. Afterward this fugitiue being

[m] Vid. Lipſ. Satur. l. 2. c. 3.

[n] Lipſ. Satur. lib. 2. cap. 23.

[o] Alex. ab Alex. lib. 3. cap. 5

[p] A. Gel. lib. 5. cap. 14.

being apprehended & adiudged to this punishment, it happened that this very Lion was brought into the shew-place for *Androclus* to fight with, where insteed of a fierce on-set, the Lion vsed a tame and familiar fawning on him, wherevpon the spectators admired, and vnderstanding the former passages betweene *Androclus* & the Lion, they released the seruant and freed him from his punishment. Where wee must note that this pardon was extraordinary [q] for vsually if any so condemned happened to ouercome a beast or two, yet was he not thereby discharged, but was to encounter with others vntill hee were killed. Yea it was very seldome that the man could prevaile against the beast, on the contrary one Lion hath prevailed against two hundred men; according to that [r] *Præclara ædilitas, vnus leo ducenti bestiarij.* By which we see many mē one after another did thus fight with beasts at the same meeting: yea the [s] *Græcians* called such as succeeded the first combatants ἐφέδρους, the Apostle S. *Paul* calleth them ἐσχάτους, because they were reserued vntill the last. [u] *Tertullian* readeth that place in this sense, and the words themselues enforce as much, for what shall we vnderstand by θέαν τὴν ἐσχάτην, but the very spectacle or shew it selfe, and what by ἀπέδειξεν, which signifieth properly *Ostendit*, but allusion to him who was the chiefe author and exhibiter of these bloudy spectacles vnto the people. [*] *Lipsius* hath paraleld that phrase of *Tully, Ostendere munus*, with that of *Suetonius, proponere munus*; both signifying the setting forth or bestowing the sight of such masteries, & fightings. And that it was no vnvsuall kinde of Martyrdome in times of the primitiue Church, thus to expose holy men to the fury and rage of wild beasts, appeareth by the example of *Ignatius*, who reioyced to bee grownd betweene the teeth of wild beasts, that he might bee found pure bread. Whose words were [x] *Frumentum sum Christi, & per dentes bestiarum molor, vt mundus panis Dei inveniar*: yea the word Ἐπιθανάτιος, *morti addictos*, helpeth this interpretation: the word intimateth that

[q] H. Salmuth. in Pancirol. de veter. ludis.

[r] Cic. in. orat. pro Sestio.

[s] Suid. in voce Ἐφεδρεύω.

[t] 1. Cor. 4. 9.

[u] Tertul. lib. de pudicit.

[*] Lipſ. Satur. lib. 2. cap. 18.

[x] Iren. adverſ. hæreſ. l. 5. c. 28. It. Euſeb. hiſt. Eccl. l. 3. c. 33.

that there was a ſure death remained for them alſo, though the laſt. The cuſtome being in the morning to commit men with beaſts, but thoſe ἐσχάτοι which remained till noone-tide, and were therefore called *Meridiani*, were committed each againſt other, and that without any defenſiue weapons, with ſwords in one hand cutting, and with the other hand being empty, graſping and tearing each others fleſh, ſo that *Seneca* ſpeaking of this, comparing it with that former fighting with beaſts, ſaith, *Quicquid ante pugnatum eſt, miſericordia fuit.*

y Suet. Claud. cap. 34.

z Senec. ep. 7.

Cap. 9.

Ergaſtulum. Ergaſtula inſcripta. Piſtrinum. Damnari in Antliam. Metallum. Inſcripti. Stigmatici. Literati. Virgæ. Flagella. Talio.

THE ſtate & condition of ſervants was various and different amongſt the *Romans* in old time, but of all they were moſt miſerable who liued in priſon. Whence thoſe that were ordinarily imployed in theſe priſon ſeruices, they were either ſuch ſeruants as were bought for that purpoſe; or ſuch as for notorious crimes were adiudged thereunto in way of puniſhment, whence the word *Ergaſtulum* is iuſtly deriued from the Greek Ἐργάζομαι, becauſe it is τόπος ἐν ᾧ οἱ δεσμῷ δεδεμένοι Ἐργάζονται; *locus in quo vincti operantur.* For even in the day time when they were ſent forth to work they had ſhackles and bolts about their legs to prevent their eſcapes, or running away, though not ſo bigge as thoſe into which they were caſt at night when they returned into priſon. Their fetters or bolts are oftentimes in ancient writers (peradventure from the forme of their links) tearmed *Annuli*, & themſelues ſaid to haue *pedes Annulatos.* They had alſo their foreheads marked or burned with ſome letters of infamy, which is the reaſon of *Iuuenals* Epitheton. *Inſcripta ergaſtula.*

Quem

Quem mirè adsciunt inscripta ergastula. The labours in which they were imploied, were sometimes digging, deluing, and tilling the ground: sometimes digging of quarry pits, sometimes grinding with an handmill, sometimes drawing water: this latter kinde of punishment in [m] *Suetonius* his phrase is *In Antliam damnari.* Those Criticks who for the word *Antlia* doe substitute *Anticyra*, or *Andia*, or such like names of Ilands, doe vtterly faile of the Autors scope, and drift; for the punishment which *Suetonius* speaketh of, is some strange or vnvsuall punishment: now seeing that Senatours themselues were often exiled, it could not seeme strange that *Roman* knights should be banished into forreigne lands. But this was a matter vnvsuall, and vnheard of, that a *Roman* knight should be imployed in such drudgeries. Againe the word *Antlia* fitly denoteth such a kind of labour, whether we respect its Etymology ἀπὸ τοῦ ἀντλεῖν; or its signification in Latine autors, it being vsed by them to signifie a great bucket, or water-scoupe to draw vp water. Thus *Martial.* *Curta laboratas antlia tollit aquas.*

[m] Suet. Tiber. cap. 51.

The handmill is often expressed by the latine word *pistrinũ*, a word frequent in Comicall Autors. It much resembled our **Bride-well** or place of correction, being called *pistrinum à pinsendo*, from pounding. For before the vse of mills was knowne, the *Romans* did pound their corne in a great morter, calling the place where they pounded it *pistrinum*: wherevpon our hand-mill hath retained the same name to this day. And because of the great paines that men did suffer in poũding, as likewise the strict discipline vsed towards seruants thus punished (for their neck was thrust into a certaine wooden engine called *pausi cape*, made for the purpose least happily in time of grinding they might eat of the meal) hence grew a custome among them, that when a servant had offended his master, he would menace him in this manner, *I'll pistrinum te dedam.* I will cast thee into **Bride-well.** The punishmẽt *Metallũ* was not much vnlike: the digging in Metall

[n] Turn. adv. lib. 4. cap. 13.

tall-mines, and working in metall houſen, appeareth not only to haue beene a baſe and ſervill, but alſo a very laborious and painefull worke; whence it was eſteemed a grievous puniſhment to be adiudged to Metall-workes, or caſt into a Metall-houſe. And either for the encreaſe of ſuch mens paines, or for to keep them from eſcapes, they were enforced to worke with their fetters and geiues about them, as is implied by *Vlpian*,[o] who makes the difference betweene theſe two phraſes: *Damnari in metallum*, and *Damnari in opus metalli*, to be thus; that the firſt ſort did weare heauier & greater fetters then the laſt. How true the difference is I leaue it to the enquirie of others, but that it was a great and infamous puniſhment [p] *Tertullian* witneſſeth, in that ſpeech of his againſt the Heathen people. *De veſtris ſemper æſtuat carcer, de veſtris ſemper metalla ſuſpirant.* Sometimes there was only ignominy and diſgrace intended in their puniſhments, of which ſort was the bearing vp and down the *Roman Furca* in the market place, or elſewhere in publike view, whereof I haue ſpoken in the chapter *Furca*: likewiſe a branding of the Malefactor with ſome infamous letter in his forehead or hand, or ſome other part of the body. Whence [q] *Pliny* calleth ſuch ſervants *Inſcriptos*. Generally they are called *Stigmatici* from στίζω, which ſignifieth to brand with marks; As *Nebulo ſtigmaticus*, A rogue burnt in the hand, or any way marked: ſometimes ſuch are called *Literati*. The *Athenians* being enimies to the *Samij*, as often as they took them captiues, they did vſe thus to burne them for rogues, which occaſioned that proverbiall ſcomme; [l] *Samijs neminem eſſe literatiorem.*

[o] Vid. Cæl. Rhodig. l. 10. cap. 5.

[p] Tertul. apolog. cap. 44.

[q] Plin. l. 18. c. 3

[l] Cæl. Rhod. lib. 7. cap. 31.

Sometimes beſides the diſgrace there was alſo toileſome paines as appeared by their *Ergaſtula*; & ſometimes to their paines ſtripes added: though I deny not, but that many times, correction with ſtripes was a preparation for death it ſelfe. This correction by ſtripes was twofold, either it was *Verberatio*, or *Flagellatio*: the firſt was with rodds called *Virgæ*;

Virgæ; the other with scourges called *Flagella*. That there was a difference betweene *Virgæ* and *Flagella*, is plaine by *Tully*, where by way of Ironie he saith, *Porcia lex virgas ab omnium civium corpore amouit*; *hic misericors flagella retulit*. Both of them were counted servile, so that Freemen were ordinarily exempted from them, as appeareth. [m]

m Ter. Adelph. Act. 2. scen. 1.

--- *Ad necem operiere loris. Sanni: loris liber?*

Horace also intimating the servile condition of *Mena* saith:

[n] *Sectus flagellis hic triumviralibus.*

n Epod. od. 4.

They are called *Flagella Triumviralia*, from those *Triumviri* whom formerly I tranflated Shreiffes, because to them belonged the ouersight of this punishment. *Eustathius* calleth them ἀσεραλωτὰς μάστιγας, *id est*, *Flagra talaria*, *seu taxillata*, because to augmẽt the paines, they did vsually in these scourges tye certaine huckle bones or plummets of led at the end of the whip-cords or thongs, and such scourges they tearmed *scorpiones*. The cruelty of these scourges was such that they many times died vnder them. Thus haue we generally and briefly touched the more vsuall punishments. But sometimes wrongs done betweene party and party, were punished with a retaliation in the same kinde: according to that. *A tooth for a tooth, and an eye for an eye.* And this kinde of punishing was called *Talio*. Yet wee are to knowe that a simple retaliation, such as is tearmed *Talio Pythagorica*, was not alwaies exacted; but sometimes satisfaction might bee wrought by a commutation of the punishment. [o] *Reus habuit facultatem paciscendi, & non necesse habuit pati talionem, nisi eam elegisset.* It were endlesse to speake of all the punishments, and happily not worth the labour, their very names being sufficient comments to explaine them. As, *Effossio oculorum. Amputatio manuum, crurifragium, Talifragium*, and such like.

Tholos. n. synt. iur. vniuers. cap. 11. lib. 31.

o A. Gel. li. 11. cap. 1.

LIB. 3. SECT. 4.

Of the Roman Lawes.

CAP. 1.

De Legibus.

HAving ſpoken of the civill Magiſtrates, and puniſhments, we will now alſo deſcend vnto the ciuill law: where firſt we will note among other differences betweene *Ius* and *Lex* principally theſe. Firſt, *Lex* ſignifieth only the law, but [a] *Ius* ſignifieth alſo that place, whereſoever the Law or Iuſtice was adminiſtred: not only if it were adminiſtred out of the Tribunall in the *Comitio*, or great hall of Iuſtice, which was tearmed by the Lawyers, *Agere pro Tribunali*: but alſo if it were adminiſtred in a priuate houſe, or in ones iourney, ſo that it were by a lawfull Magiſtrate, and out of the curule chaire; and this was tearmed by the Lawyers, *Agere de Plano*: and hence is it, that *In ius vocare* ſignifieth to cite one into the Court. Secondly, *Lex*, ſignifieth only the written law, but *Ius* ſignifieth equitie; ſo that [b] *Ius permaneat ſemper, nec vnquam mutetur*: *Lex vero ſcripta ſæpius*. Notwithſtanding theſe two words are vſed promiſcuouſly one for the other; and therefore leauing all curious differences betweene thoſe words (whether the

[a] Sig. de iud. lib. 1. cap. 7.

[b] Fr. Sylv. in orat. pro Mil.

Roman

Roman lawes were truely *Iura* or *Leges)* thus much we may obserue, that the lawes vsed among them were of three sorts; either they were such as were made by seuerall *Roman* kings, and afterward collected and digested into a method by *Papirius*, [c] from whence it was called *Ius Papirianum*: or they were such as the *Decemviri* brought from *Athens*, and were called *Leges 12 tabularum*: or lastly they were such as the *Consuls*, the *Tribuni Plebis*, and such Magistrats did preferre, whence euery seuerall law bore the name of him or them that preferred it. My purpose is to explaine only this latter sort, and that not all of them, bnt such alone as I haue obserued in *Tully*, and that chiefely in his orations. My proceeding shall be first to shew the diuers kinds of iudgements; and then to descend vnto the lawes themselues, beginning with those which shall concerne the *Roman* religion, and then proceeding to the others, which concerne the commonwealth.

[c] Fr. Sylu. in epist. virorum illust. l. 5. ep. 11.

Cap. 2.

De Iure publico & priuato.

THE Cases to be decided by the law were either publike or priuate; and accordingly were the iudgements, [d] *vel priuata, in quibus ius suum priuatus quisq; persequebatur: vel publica, in quibus iniuria quæ reip. facta erat vindicabatur.* The priuate (as we obserued before) belonged vnto the *Prætori vrbano & peregrino*, that is, the L. cheife Iustices, who did either giue iudgement themselues, and then were they said *Iudicare*, or they did appoint others to sit in iudgement, and [e] then were they said *Iudicium dare*: in the absence of the *Prætors* there were ten called *Decemviri Stlitibus iudicandis, id est*, [f] *Super lites iudicandas*, who in the same manner, as the *Prætor*, might either giue iudgement themselues, or appoint others; for they were euen in [g] one place and

[d] Sig. de iure Rom. l. 2. c. 18.

[e] Sig. de iud. lib. 1. c. 7.

[f] Rosin. ant. l. 7. c. 29.

[g] Alex. Gen. dier. l. 3. c. 16.

and insteed of *Prætors*. Those which either the *Prætor* or the *Decemviri* did appoint to debate the cases vnder them, were taken out of the *Centumviri*, that is, [h] out of certaine Commissioners chosen for that purpose; namely three out of every Tribe or ward; so that in all, the number of them amounted vnto an hundred and fiue, but in round reckoning they went for an hundred; and from a certaine speare that was wont to be erected vp in token of this court, hence was the [i] Court called either *Prætoria Decemviralis*, or *Centumviralis hasta*: In some cases their forme of acquittance was thus: [k] *Secundum illum litem do*, whence [l] *Tully* saith, *Quo minùs secundum eos lis detur, non recusamus*, that is, we doe not deny, but they may be acquitted. Those that were cast in their suit, were said, *Lite vel causa cadere*. The publike Cases belonged ordinarily (except the *Consuls*, the *Senate*, or the people did interpose their authority) vnto those whom we called *Prætores Quæsitores*. Some haue [m] thought them to be the same with those, whom *Rosinus* calleth *Iudices Quæstionum*, and that I thinke not altogether vpon vnsure grounds: first because most of these publique cases, which they tearmed *Quæstiones*, had their [n] seuerall *Prætors* to enquire them; whence they were called *Quæsitores*, and may in my opinion be called *Iudices Quæstionum*, especially seeing that those which would haue them bee different officers, cannot well shew the difference of their offices. Now as the Vrbane *Prætor* had an hundred commissioners vnder him: so had these *Prætores Quæsitores* certaine Iudges chosen [o] by the Vrban or forreigne *Prætor*, when he tooke his oath; and that not according to his pleasure as many as he would, or whom hee would, but sometimes more, sometimet fewer, sometime, only out of the *Senators*, sometimes only out of the order of *Roman* Gentlemen, sometimes out of both; sometimes also out of other orders, [p] according as the law appointed, which oftentimes varied in those points. The Iudges how great soeuer the number was, [q] were called *Indices selecti*, and were diuided

[b] Pet. Ramus in 2am de lege Agrar.

[i] Sig. de Iud. lib. 1. c. 28.

[k] Sig. de Iud. lib. 1. c. 29.

[l] Cic. pro Quin. Roscio.

[m] Rosin. ant. lib. 2. cap. 18.

[n] Sig. de Iud. lib. 2. c. 4.

[o] Sig. de Iud. lib. 2. cap. 6.

[p] Sig. ibid.

[q] Sig. de iur. Rom. l. 2. c. 18.

vided into seuerall companies called *Decuriæ*. These Iudges were vpon any citation from any of the *Prætors*, to giue their assistance in the Court vpon the day appointed by the *Prætor*. Now the manner how they did proceed in their iudgement followeth in the exposition of one of the lawes, and therefore I will referre the reader thither. Only let him by the way vnderstand, that whereas *Tully* is quoted in euery law, it is not so much for the proofe of the law, as to signifie, that he in that place maketh mention thereof. For the proofe of the lawes I referre the reader to *Rosinus* and *Sigonius*: touching the expositions, my marginall quotations doe proue sufficient.

CAP. 3.

De Legibus religionem spectantibus.

Lex. Papiria.

L. *Papirius Trib. Pleb.* established a law touching the consecration or hallowing of places, that it should be vnlawfull for any to consecrate either houses, grounds, altars, or any other things *Iniussu plebis*, that is, without the determination of the *Roman* people in their assemblies called *Comitia Tributa*, which determination was alwaies tearmed *Plebiscitum*. Cic. pro Domo.

Roscia Lex.

L. Roscius Otho. Trib. Pleb. preferred a law, that whereas heretofore the *Roman* Gentlemen did stand promiscuously with the commons at their theatrall shewes, now there should bee foureteene benches or seates built for those *Roman* Gentlemen which were worth H.S. *quadringenta*, that is, about 3125 l. of our *English* mony. As for other Gentlemen whose substance was vnder the rate, they had a certaine place allotted them by themselues, with a punishment imposed vpon them, if they offered to come into any of those 14 benches. Cic. Philip. 2. Item pro Muræn.

Here wee must note that this character H-S. standeth for a silver coyne in *Rome* called *Sestertius*, and is by *Rosinus* in this place improperly vsed for *Sestertium*. For this character H-S. is by our printers false printed, the true character [r] being L-L-S. signifying *duas Libras* (as the two L.L. doe intimate) and *Semissem*, which is intimated by the latter S. Where if *Libra* doth signifie no more then the *Roman* coyne called AS, then is this opinion touching the character LL-S easie to be confirmed. For diuers authors [f] rendring a reason of the name *Sestertius*, say it was so called *quasi Semitertius*, that is, such a coyne as containeth *Duos solidos asses & semissem*. This *Sestertius*, was such a common coyne among the *Romans*, [t] that *Nummus* and *Sestertius* became at length one to be vsed for the other; [d] *Mille hususmodi sestertij vel nummi faciunt vnum sestertium in neutro genere, & conficiunt plus minus viginti quinq; coronas.* According to which rate, *quadringenta sestertia* amounteth to 3125: and every particular *Sestertius* is according to this rate, in value three halfe-pence farthing *q*.

[r] Fr. Matur. in Philip. 2.

[f] Chr. Hegendorphius in Verrinam 1.

[t] P. Nannius in Verrin 5.

[u] Ch. Hegendorphius in Verrin. 5^m.

And here we may fitly obserue the art of numbring by these *Sesterces*, which consisteth in three rules. First, if the numerall or word that denoteth the number bee a noune adiectiue agreeing in case gender and number with the substantiue *Sestertius*, then it signifieth precisely so many *Sestertij*: For example sake; *Decem sestertij* doe signifie so many times i^d. *ob* q^a *q*. Secondly, if the numerall being an adiectiue, and of a different case, be ioyned with *Sestertium* in the genitiue case plurall, then doth it note so many thousand *Sestertij*: For example, *Decem sestertiũm* signifieth ten times 7^l 16^s 3^d. Thirdly if the numeral ioyned with *Sestertiũm* be an adverb, then it designeth so many hundred thousand *Sestertij*, *ex gra*: *Decies sestertiũm*, doe signifie ten hundred times 7^l 16^s 3^d. Yea the numerall being an aduerb, is oftentimes put simply by it selfe, without the addition of any other word to signify in the same manner, the genitiue case *Sestertium* being vnderstood.

stood. For the better conceauing hereof, the former example may be thus set downe.

Decẽ sestertij	*10 Sestertios*	*De nostro valent*	0000	l	01	l	6	d	ob q^{a}
Decẽ sestertium	*10 Millia sestertium*		0078		02		6	0	0
Decies sestertium	*10 Centena Millia*		7812		10		0	0	0
Decies	*Sestertium*								

Clodia lex.

Publius Clodius Trib. Pleb. made a law, by vertue whereof the Priest called *Pessinuntius sacerdos* (from the place where he did first exercise those holy rites in the honour of the mother Goddesse) should be depriued of his Priesthood; and the Temple built in the honour of this Goddesse should be bestowed vpon *Brotigarus*, of *Gallo-Gracia*. Cic. pro Sext. item de Arusp. respon.

Domitia lex.

Cn. Domitius Ahenobarbus Trib. Pleb. enacted a law, that the Colledges of Priests should not as they were wont, admit whom they would into the order of Priesthood, but it should be in the power of the people. And because it was contrary to their religion, that Church-dignities should be bestowed by the common people, hence did he ordaine, that the lesser part of the people, namely seauenteene Tribes should elect whom they thought fit, and afterward he should haue his confirmation or admission from the Colledge. Cic. Agrar. 2.

Lex incerti nominis de vacatione sacerdotum.

Cicero in his orations mentioneth a law (not naming the author thereof) whereby the Priests were priuiledged from their seruice in all warres, except onely in vproares or ciuill tumults.[x] And these priuiledges were tearmed *Vacationes*. Cic. Philip. 8. & pro Font. r.B. Latomus in Philip. 7.

Cap. 4.

De Ciuitate, & iure ciuium Rom.

Porcia lex de ciuitate.

Cic. pro Rabir. & sæpe alias.

M. *Porcius Trib. Pleb.* established a law, that no Magistrate should beate any *Roman* Cittizen with roddes.

Lex Semproni.

Cic. pro Cluentio, & sæpe alias.

C. Sempronius Gracchus Trib. Pleb. preferred a law, whereby he disabled the Magistrate from punishing any *Roman* Cittizen, either with rods, or with his axe, that is, with death, without the allowance of the people. Secondly, by vertue of this law, if any Magistrate did condemne any *Roman* cittizen *Indictâ causâ* he should be liable to the iudgement and censure of the people. A third clause to this law was, *Ne quis coiret, conueniret, quo quis iudicio publico circumueniretur Iudicta causa.* He was said to bee condemned *causa indicta*, which was condemned before he had spoken for himselfe. Although [y] *Indicere pro non dicere, sicut & inuidere pro non videre vix reperiatur; tamen indictum & inuisum, pro non dicto, & non viso sæpè reperiuntur.* [z] They were properly said *Coire*, which did worke vnderhand against a man, that he might be condemned; we may translate it in this place, to **Conspire**. [a] The verbe *Circumvenio* doth commonly signifie as much as *Circumscribo*, to deceaue or cheat one: but in this place, to oppresse one with false iudgement, procured by bribery or confederacy.

y P. Ramus in orat. pro Rabirio.
z Fr. Sylv. in orat. pro Cluentio.
a I. Camerar. in orat Cic. pro L. Flacco.
b Fr. Sylu. in orat. pro Cluentio.

Lex Papia de peregrinis.

Cic. pro Balb.

The priviledges of the *Roman* citizens became so great, that almost all the inhabitants of the confederat nations, would forsake their owne dwellings, and vse meanes to become free denisons in the *Roman* citty; insomuch that the Embassadours of the Allies, and associates, did grieue much and

and complaine of the losse of their inhabitants: whereupon a law was made by *Papius*, that all forreiners and strange commers should be expelled out of the Citty. To the same effect was *Lex Iunia*, and also *Licinia Mutia de peregrinis*: the first being preferred by *Mar. Iunius Pennus*: the second by L. *Licinius Crassus*, and *Q. Mutus Scævola*. Cic. offic. l. 3.

Seruilia lex de ciuitate:

C. Seruilius Glaucia preferred a law, *Vt si quis Latinus*, If any of the Latine associates could proue an action of bribery against a *Senatour*, then should he be made a free-man of the Citty. Cic. pro Balb.

Quis Latinus] Here wee will obserue with [c] *Sigonius*, that the *Latine* people were not alwaies called *Latini & Italici*: *Sed & socij, & Latini socij; & socij nominis Latini, & socij nomen, Latinum, & socij ab nomine Latino, & socij ac Latium dicti sunt.* [c] Sig. de iure Ital. l. 1. c. 2.

Sylvani & Carbonis lex de peregrinis.

Silvanus and *Carbo* being *Tribuni Pl.* preferred a law, *vt qui federatis ciuitatibus adscripti essent, si tum, cùm lex ferebatur, in Italia domicilium habuissent, ac sexaginta diebus apud prætorem professi essent, ciues Romani essent.* Cic. pro Archia.

Adscripti.] For the right vnderstanding hereof wee must note, that there were [d] two sorts of citizens; some *ciues nati*, that is, citizens by birth; others *ciuitate donati*, that is, citizens by donation, or gift: who because they were added vnto, & registred with the first sort of citizens, were thence called *Adscripti cives*. [d] Fr. Sylu. in orat. pro lege Manil.

Professi apud prætorem.] This verbe *profiteri* is sometimes [e] *Comitiale verbum*, and signifieth as much as *profiteri nomen*, that is, to tender ones name vnto a Magastrate: and this construction it beareth in this place. [e] P. Ramus in or. Cic. Agrar. 2.

Cornelia de Municipijs.

L. *Cornelius Sylla* preferred a law, that all *Municipall* states should loose their freedome in the *Roman* citty, and also their priuiledge of hauing commons in the *Roman* fields. Cic. pro Domo.

Gellia

Gellia Cornelia lex.

Cic. pro Balb. L. *Gellius Publicola*, and *Cn. Cornelius Lentulus* being Cõsuls decreed a law, that all those private persons vpon whom *Cn. Pompeius* in his wisdome should bestowe the freedome of the *Roman* cittizens, should euer be accounted free demisons.

CAP. 5.

De legibus ad comitia spectantibus

Ælia lex.

Cic. multis in locis. Q. *Ælius Pætus* asked a law in time of his Consulship, *vt quoties cum populo ageretur*, that is, as often as any *Roman* Magistrat did assemble the people to giue their voices, the *Augures* should obserue signes and tokens in the firmament, & the magistrate should haue power *obnunciandi, & intercedendi*, that is, to gainsay and hinder their proceedings.

Ageretur cum populo.] Here wee may note the difference betweene these two phrases, *Agere cum populo*, and *Agere ad populum*. [f] He was said *Agere ad populum*, whosoeuer made any speech or oration vnto the people, and this might bee done vpon any day indifferently: But then only was it said *Agi cum populo*, when the people were assembled to the giuing of their voices by a lawfull Magistrate, and the people were demanded what their opinion was in the matter proposed: and this could not be done, [g] but vpon one of those daies which they called *Dies Comitiales*.

[f] A. Gell. l. 13. cap. 14.

[g] Bersman. de vet. dier. ratione ad finem. Ovid. Fast. Cic. in suis orat. sæpe.

Fusia lex.

Pub. Furius siue Fusius Philus being *Consul* ordained a law, that vpon some certaine daies, although they were *dies Fasti*, that is, Leet-daies, yet no Magistrate should summon an assembly.

Clodia

Clodia Lex.

P. Clodius Trib. Pl. abrogated both those former lawes, making it vnlawfull to obserue signes and tokens in the heavens, vpon those daies when the *Roman* people were to bee assembled: And secondly, making it lawfull to assemble the people vpon any Leet-day whatsoeuer. Cic. pro Sext.

Gabinia lex.

At first, for many yeares the *Roman* people in their assemblies did suffrage *Viuâ voce*: at which time many of the inferiour sort, gaue their voices contrary to their wills, fearing the displeasure of those that were of higher place. For the better helpe in this point, *Gabinius* asked a law, that the people in all their elections might not suffrage *Viua voce*, but by giuing vp certaine tablets, the manner whereof hath beene formerly shewne: whence both this, and all other lawes tending to this purpose haue beene called *Leges tabellariæ*. Cic. 3. de leg.

Cassia lex.

After *Gabinius*, *Cassius* also preferred a law, that both the Iudges in their iudgements, and the people in their assemblies should suffrage by rendring such tablets: [h] but this is to bee vnderstood onely of those assemblies by wards called *Comitia Tributa*: wherein they treated of mulcts and mercements. Cic. in Lælio. [h] Rosin. ant. lib. 8. c. 3.

Cœlia lex.

Cœlius Trib. Pl. established a law, that not only in mulcts and mercements, but also *In perduellionis iudicio*, that is, in taintments of treason against any person of state (namely such as were *sacrosancti*) or against the common-weale, this *Tabellary* liberty should haue place, when the people should iudge thereof. Cic. 3. de leg.

In perduellionis iud.] [i] This word *perduellis* doth signify an enimie vnto the state, a traitour: and hence commeth this word *perduellio*, signifying not only the crime of treason, but the punishment also due thereunto, [k] *Si crimen quod erat gra-* [i] Cœlius Sec. Curio in orat. pro Milone. [k] Sig. de iud. lib. 3. cap. 3.

vissimum inter crimina, nempe imminuta maiestatis: si pœna, quæ erat acerbissima, nempe mortis.

Papiria lex.

Cic. de leg. 3. *C. Papirius Carbo Trib. Pl.* persuaded that not onely in their elections, but in the proposall of their lawes also, this suffraging by tablets should be vsed.

Sempronia lex.

Cic. multis in locis. *C. Sempronius Gracchus Trib. Pleb.* preferred a law, that the Associats of *Latium* should haue as great right of suffraging, as the *Roman* citizens.

Manilia lex.

Cic. pro Mur. *C. Manilius Trib. Pl.* preferred a law, that all those who were *Libertini*, in what tribe or Ward soeuer, should haue the right of suffraging.

Cap. 6.

De Senatu & Senatoribus.

Claudia lex.

Cic. Verrin. 7. Q. *Claudius Trib. Pleb.* persuaded a law that no *Senator* or *Senators* father, should haue any shippe, which should containe aboue three hundred of those measures called *Amphoræ*, deeming that sufficient for the transportation of their corne from the *Roman* field. Secondly, by this law the *Senatours* were forbidden the vse of trading.

Alex. Gen. dier. l. 2. c. 20. *Amphoræ*,] *Alexander Neopol.* obserueth two sorts of these measures, namely *Amphora Italica* containing 2 *Vrnas*; & *Amphora Attica* containing 3 *Vrnas*: every *vrna* contained two gallons and a pottle. This in probability is vnderstood of the *Italian Amphora*.

Tullia lex.

Cic. Philip. 1. When as a custome had growne, that many of the *Senators* hauing by speciall fauour obtained *Liberam legationem*, vpon

vpon all occasions would abuse that their authoritie, procuring thereby their private gaine, & the increase of their own honour; then *M. Tullius Cic.* being *Consul* laboured, quite to take away these kindes of embassages: which though hee could not effect, yet thus farre he prevailed; That whereas in former times this *Libera legatio* being once obtained, was neuer (not through a mans whole life) taken from him againe: yet afterward this autority should never bee granted to any longer, then the space of one yeare.

Legatio libera.] We may obserue in ancient autors three severall kindes of embassages. The one, which is a message sent from the Prince or chiefe gouernours of one countrey vnto another, and that is expressed commonly by this one word *Legatio*, without any addition therevnto; sometimes it is called *Legatio mandata.* The second, which is when one purchaseth the title of an Embassadour, thereby the more honourably to performe some vow made, whence it was called *Legatio votiva.* The third is the office or title of an Embassadour, granted vpon speciall favour vnto a *Senatour*, that he might with the greater authority prosecute his private suits in law, or gather vp his debts in that Province whether he went, this last was tearmed *Legatio libera.* All three sorts are briefly touched by [m] *Toxita.*

[m] M. Toxita in orat. Phil. 1.

Cap. 7.

De Magistratibus.

L. *Cornelius Sylla* being *Dictator*, made a law, that all such as would follow him in the ciuill warre, should be capeable of any office or magistracy before they came vnto their full yeares. A second part of this law was, that the children of such as were *proscripti*, should bee made vncapeable of the *Roman* magistracies. Cic. in Pison.

Before they came to their full age] For *L. Villius* preferred a law, whereby he made such as were vnder age, to bee vncapeable of the city preferments: and those he accounted vnder age, who had not attained vnto that number of yeares which he had prescribed each seuerall office: [n] and this law was tearmed *lex annalis.*

[n] P. Ramus. in Agrar. 2.

Proscripti were such persons as were banished. For the fuller vnderstanding, looke Proscription in the tract of punishments. *Iulius Cæsar* did contrary to this law. *Admisit ad honores & proscriptorum liberos. Sueton. Iul. 41.*

Hircia lex.

Cic. Phil. 13. *A. Hircius* made a law, that all those that followed *Pompey*, should bee made vncapeable of all places of office.

Cornelia lex.

Cic. Philip. 2. *L. Cornelius Sylla* finding the *Prætores*, that is, the Chiefe Iustices not to giue sentence alwaies according to equitie, yea sometimes to goe quite contrary to their owne Edict, made a law; that euery Chiefe Iustice should administer iustice according to that his first Edict, hanged vp at the beginning of his office. An addition vnto this law was, that the Chiefe Iustice should not be absent out of the city aboue ten daies.

Clodia lex.

Cic. pro Sext. In former times it was lawfull for either of the *Censors* to censure whom he pleased, and how he pleased, except his fellow *Censor* did plainely gainesay it, and make opposition therein. But many abusing this their authority. P. *Clodius Trib. Pl* made a law, that the *Censors* should not ouerskippe any in their election of *Senatours*; neither should they brand any with disgrace, except such as had beene accused vnto them, and beene condemned by them both.

Valeria lex.

Cic. Verrin. 4. The office of a *Dictator* at the first institution continued but six months space, vntill *L. Valerius Flaccus* being *Interrex*

rex, in the vacancy of the *Consuls* preferred a law, that *L. Cornelius Sylla* should be a perpetuall *Dictator*.

Cornelia lex.

L. Cornelius Sylla in the time of his *Dictatorship*, did by vertue of a law preferred by him, clip the authority of the *Tribuni Pl.* disabling them of bearing any office after the expiration of their *Tribuneship*, taking away their authority of preferring lawes, of vsing any solemne speech, or publike oration vnto the people, of hearing appeales, of hindring any statute, or decree tending to the hurt of the populacy. Cic. 3. de leg.

Cap. 8.

De legibus.

Cœcilia Didia lex.

Cœcilius Metellus, & *Titus Didius* being *Consuls*, forbad that *Vna rogatione*, that is, in one and the same bill many things should bee proposed vnto the people: least by that meanes, the people by granting the whole bill, might grant something which they would not; or in denying the whole bill, might deny some particular clause which by it selfe they would haue accepted. Moreouer these two *Consuls* ordained, that before a law should be asked in the assemblies it should be promulged, that is, hanged vp to the publique view of the people three market daies. Cic. pro domo sua ad pontif.

Iunia Licinia lex de trinundino.

Iunius Silanus, and *L. Licinius Murœna* being *Consuls* established that law of *Cœcilius* & *Didius*, annexing a more seuere punishment for the breakers thereof. Cic. Philip. 5.

Clodia lex de intercessione.

P. Clodius Trib. Pleb. made a law, that the *Trib. Pl.* should haue full authority, and power to propose lawes; neither should they be hindred by the *Intercession*, that is, gainsaying of any. Cic. pro Sext.

Cic. pro domo sua ad pont.

Licinia Æbutia lex.

Licinius and *Æbutius* being *Trib. Pl.* ordained that if any preferred a law touching the ouerfight, the charge, or cure of any businesse in hand; neither he, nor any fellow-officer with him, nor any allied vnto him should haue this ouerfight, or charge committed to him.

Cap. 9.

De Provincijs.

Sempronia de Provincijs.

C. *Sempronius Gracchus Trib. Pleb.* ordained, that the *Senate* euery yeare before the election of their *Consuls*, should as it seemed best to them, appoint out what Prouinces the *Consuls* now to be elected, should after the expiration of their office goe vnto; for which Prouinces afterward the *Consuls* designed should cast lots. Another clause to this law was, that whereas in former times, by a decree from the Senate, it was lawfull for the *Tribunes* to hinder the *Roman* assemblies, henceforward they should haue no authority.

Cic. de prov. consularibus.

Cornelia de Provincijs.

L. *Cornelius Sylla* being *Dictator* preferred a law, that whosoeuer went into a Province *cum imperio, tam diu illud imperium retineret, quoad in vrbem reuersus esset*: whereas in former times his rule and gouernment was to be resigned at the expiration of a set time appointed: yea although no successor were sent, yet could he not continue there *cum imperio* without a new commission. A clause added vnto this law was, that after the comming of any new *President* or Gouernour into the Prouince, the old *Prouinciall President* should depart within thirtie daies.

Cic. ep. 9. ad Lentul.

Esse cum imperio.] that is, [p] *Exercitui praesse*, [q] *vel habere ius administrandi, & suis auspicijs gerendi belli.*

[p] Sig. de iur. Prou. l. 3. c. 13.
[q] Sig. eiusd. lib. cap. 6.

Titia

Titia lex de Provincijs.

Titius, or (as [r] some say) *Decius* preferred a law, that the Provinciall Treasurers called *Quæstores*, should cast lots for their Provinces: whence *Tully* in the Oration now quoted inferreth, that although *Ostia* being the better Prouince fell vpon *Seruius Sulpitius*, yet inas much as it fell *Lege Titia*, that is, by casting lots, hee could not therefore challenge any superiority aboue *L. Muræna*, *Sed vtriusq; nomen consedit in Quæstura*, that is, their fame and renowne was equall in their *Quæstorship*. Cic. pro L. Muræn. [r] Melanct. in orat. pro Muræna.

Iulia lex de Provincijs.

C. *Iulius Cæsar* established two lawes touching the *Roman* Provinces: one that no *Prætor* should gouerne a Province aboue twelue months; nor *Proconsul* aboue two year. The seuerall heads or clauses of his second law could not all be found out, but those which haue come to light are these. Firſt that *Achaia*, *Thessalia*, and all *Græcia* should bee free, neither should any *Roman* Magistrate sit in iudgement in those Provinces (*Cic. pro domo*) Secondly, that the Provincial gouernours & their *Comites*, that is, assistants, or attendants should haue hay, and all other necessaries prouided them on the way, by those Townes and Villages through which they passed. (*Cic in Pison.*) Thirdly, that the Provinciall Magistrates at their departure, should leaue a booke of their accounts in two Cities of their Province, and likewise should send a coppy of their accounts vnto the *Roman* Treasure-house (*Cic. in Pison.*) Fourthly, that it should neither be lawfull for the people to bestow, nor for the Provinciall Magistrate to receaue *Aurum coronarium*, vnlesse it were in a triumph. (*Cic. in Pison.*) Lastly, that it should be vnlawfull for the Provinciall Magistrate without the allowance of the people or the *Senate*, to depart out of their Province, to lead forth any army, to wage warre, or to goe into any forraine country. (*Cic. in Pison.*) Cic. Philip. 1.

Aurum coron.] There was a custome among the *Romans* in (Lipſ. de mag. Rom. l. 2. c. 9.

in times of victory to present vnto the L. Generall Coronets of gold, insteed whereof the after-ages presented a certaine summe of mony, which was thence called *Aurum coronarium.*

Vatinia de Provincijs.

Cic. pro Balb. P. *Vatinius Trib. Pl.* procured a law, that *Iulius Cæsar* should haue the gouerment of *Gallia Cisalpina*, and *Illyricum* for fiue yeares space, without any decree from the *Senate*, or casting lots. Secondly, that they also should goe as Legates, or L. Deputies vnto *Cæsar*, without any decree from the *Senate*, whosoeuer were nominated in that law. Thirdly, that *Cæsar* should receaue mony out of the common Treasure-house towards hauing an army. Lastly, that hee should transplant a Colony vnto a certaine towne of *Cisalpina Gallia*, called *Nouocomum.*

Clodia de Provincijs.

Cic. pro Dom. P. *Clodius* being *Trib. Pleb.* procured a law, that the gouernment of *Syria*, *Babylon*, and *Persia* should be committed to *Gabinius.* The gouernment of *Macedonia*, *Achaia*, *Thessalia*, *Græcia*, and all *Boetia* should be committed vnto *Piso*; and they should receaue together with an army, mony out of the common Treasurie towards their iourny.

Clodia altera de Cypro.

Cic. pro Sext. P. *Clodius* preferred another law, that the Iland *Cyprus* should be made a Province. That *Ptolemæus* the king of *Cyprus* sitting in his purple, with his scepter & other his princely ornaments, *Præconi publico subijceretur, & cum bonis omnibus publicaretur*, that is, should himselfe with all his goods be sold by a common cryer. That *M. Cato* being then Treasurer, *cum iure Prætorio, adiecto etiam Quæstore*, hauing by commission the office of a L. chiefe Iustice, & another Treasurer to accompany him, should bee sent into the Iland *Cyprus*, both to make sale of the kings goods & estate, and also to bring backe the money. Lastly, it was decreed by this law, that those who liued in exilement at *Byzantium* being condem-

condemned for some capitall crime, should be brought back vnto the citty, vnder the name of *Romanes.*

Præconi publico subijceretur.] For the better vnderstanding of that phrase, we are to vnderstand the manner of port-sale amongst the *Romanes*: which wee may read in *Sigonius* thus. Those things were rightly sold in port-sale, which were publikely told *Per præconem sub hasta*, that is, by the cryer vnder a speare sticked vp for that purpose, and some Magistrate making good the sale by deliuery of the goods. Where I take *Publico præconi subijci*, and *Hastæ subijci*, to signifie one and the selfe same thing, namely, to be set at sale: and [t] *Cicero* vseth almost the selfe same phrase, *Bona Cn. Pompeij, voci acerbissimæ subiecta præconis.* This kinde of sale was tearmed *Auctio*; because as *Sigonius* saith in the same place, to him the goods were sold, *Qui plurimum rem augeret*, that is, which would bid most for it: and hence is the seller thereof tearmed *Auctor*, as [v] *Cic. Id quod à malo auctore emissent*, that is, that which they had bought of one which had no authority to sell: and from this custome of setting vp a speare in this kinde of sale, this word *Hasta* alone is vsed to signifie port-sale, as [x] *Hasta Cæsaris*, the sale of *Cæsars* goods. Those who bought these goods [y] *Tully* doth call *Sectores* [z] *quia spem lucri sui sectabantur.* In such kinde of sales a catalogue or note of the goods to be sold was hanged vp in tables for the publique view of passengers. Whence such goods were tearmed *suspensa bona.* And if any friend would redeeme the goods, then did he *deycere libellos*, that is, put in bands and securitie to answere the matter. The phrase is vsed by *Tully Cic. pro Quintio.* And also by *Seneca, de benef. lib. 4. cap. 12. Suspensis amici bonis libellum deijcio, creditoribus eius me obligaturus.* It is thus explained by *Turnebus adv. l. 12. cap. 9.* If the sale proceeded on, then such as propoſed to be chapmen, signified their desire by holding vp their finger: whence *Digitum tollere* signifieth the desire of buying such goods. *Alex. ab Alex. lib. 4. cap. 26.*

t Cic. Phil. 11.

u Verrin. 7.

x Cic. Phil. 8.

y Cic. in. Ver.

z Sig. de ind. lib. 2. cap. 24.

Cap. 10.

De legibus Agrarijs.

THose lawes were tearmed *Leges Agrariæ*, which did concerne the diuision of the publique, or common fields. And these were either giuen by *Romulus* and other kings; or taken from the enimies, or from priuate men which had made incloasures; or lastly bought out of the common Treasurie. *Vid.*[a] *Sigon.*

a Sig. de iure Ital. l. 2. c. 2.

Sempronia lex Agraria

Cic. pro Sext. *Titus Sempronius Gracchus Trib. Pleb.* preferred a lawe which forbad, that any of the *Romans* should haue to his owne part aboue fiue hundred acres of the common fields, the one halfe of which it was lawfull for his sonnes to enioy. If it had so hapned that any should enlarge these common fields, three suruayers called the[b] *Triumviri agro dividundo*, did marke out which was common, which priuate ground. Moreouer it was by this law provided, that the mony of king *Attalus* who made the people of *Rome* his heire might be bestowed vpon those cittizens, which had by this law obtained a part of the common fields, to the buying of instruments for husbandry. Moreouer that the kings lands should be farmed out at a set rent by the *Censors*, whence an yearely tribute should be paid to the people.

b Sig. de iure Ital. l. 2. c. 2.

Cornelia lex.

Cic. in Rullum. *L. Cornelius Sylla* being *Dictator* preferred a law, that all the fields of those *Romans* which he had banished, should be common. This publication is to be vnderstood chiefly of those fields in *Thuscia*, neere vnto the Citty *Volaterræ*, & the citty *Fesulæ*, which grounds *Sylla* diuided amongst his souldiers.

Cap. 12.

Cap. 11.

De frumentarijs legibus.

Sempronia lex.

THe *Sempronius Gracchus* being tribune of the commons provided, that a certaine quantity of corne should monthly be giuen vnto the poorer sort at a low price. *Semisse & triente*, that is, about six pence farthing a bushell. Herevpon was there a place appointed in *Rome*, for the keeping of this common corne, together with certaine lawes hanged vp there called *leges frumentaria*. This place was called [c] *Horrea Sempronia*. The quantity of corne laid vp in euery Citty for this purpose is by the latter Lawyers tearmed *Canon*: as *Canon Alexandrinus*, *Canon vrbis Romæ*. *&c. vid. Stuk. de conviv. lib. 1. c. 35.* Cic. pro Sext.

[c] Rosin. ant. lib. 8. c. 12.

Semisse & triente] It appeareth by the next law, that *Semissis* in this place, must signifie the same as *senis aris* doth there. Whereby wee may note, that *semissis* doth not alwaies signifie the halfe part of the *Romane* coyne called *As*, but sometime it signifieth a greater coine valuing almost our six-pence.

Clodia lex.

P. Clodius Trib. Pl. ordained, that that corne which heretofore was sould to the poore *senis aris & trientibus in singulos modios*, that is, for six pence farthing a bushel, should hereafter be giuen *gratis*, & the charge and ouersight of this dole was committed to *Sext. Claudius*.

Cic. pro Sext. in Pisone.

Terentia Cassia.

M. Terentius and *C. Cassius* being *Consuls* preferred a law, *Vti altera decuma à provincijs coemerentur, pretio in singulos modios HS trium constituto. Item vt ciuitati æqualiter imperaretur, pretio in singulos modios HS quaternum constituto.*

Cic. Verrin. 5. & 7.

For the better vnderstanding of this law, wee must note a threefold tithe payd by the Provinces. The first was the tenth part of the graine, growing in the Province to be paid in *gratis*, and that was properly called *Decuma*, or *frumentum Decumanum*, and those that tooke this tithe to rent were called thence *Decumani*. A second sort of tithes was a certain quantitie of corne taken vp for the L. President or chiefe gouernour of the Prouince, to keepe his house, and that was called *Frumentum æstimatum*, that is, corne gathered vp by way of taxation: for so this word *æstimo* comming from *æs*, doth signifie. [e] *Est autem æstimare ab ære dictum, id quod vulgo dicunt appreciare & taxare.* The third sort of tithes, was when the *Senate* finding scarcity of corne in *Rome*, did inioyne the Provinces to sell them a quantity of corne at a prise set downe by the *Senatours* themselues; and this corne sold vpon iniunction if it was paid but once in the yeare, it was tearmed *Frumentum emptum*: but if in the same yeare a second sale was inioyned them, then they called that second pay *Frumentum imperatum*. In the first clause of this law by [*altera decuma*] is meant *Frumentum emptum*; in the second clause, by these words [*ciuitatibus æqualiter imperaretur*] is vnderstood *Frumentum imperatum*.

d Sig. de iure Prov. l. 1. c. 1.

e Fr. Sylv. in orat. pro Cluentio.

Lex Hieronica.

Cicer. in 4. *Hiero* king of *Sicily* obtained a law, wherein was set down the quantity of corne that the *Aratores* or country farmers should pay vnto the *Publicani*, that is, those which receaued the tithes, together with the time of payment and the price agreed vpon.

Cap. 12.

De legibus sumptuarijs siue cibarijs.

In ancient times there was a commendable frugality among the *Romanes* in their feasts, but after ages grew to immoderate excesse therein, so that whole Goates and Boares

Boares &c. were set on the table at one time. Such a hogge thus dressed *Gncius* was wont to call [a]*Porcum Troianum*, alluding to the *Troian* horse; because the belly thereof was stuffed with variety of fowle and rabbets, & such like, as the *Troian* horse was with armed men. This kinde of excesse *Tiberius Cæsar* laboured to redresse, by serving at table his cold halfe-eaten dishes at solemne feasts, vsing this proverb [b] *Dimidiatus aper omnia eadem habet quæ totus.* Hence also men of severer discipline enacted lawes tearmed *Leges sumptuariæ*, or *Cibariæ*, which prescribed a moderation, not onely for the charges in their greatest feasts, that they should not exceed such and such summes of mony, but also for the guests to be inuited, that they should not exceed such a number. The chiefe of these lawes were these that follow.

[a] Stuk. de conviv. lib. 3. c. 3.

[b] Suet. Tiber. 34.

Lex Orchia.

C. *Orchius* being protector of the commons, by the consent of the *Senate*, the third yeare before *Cato* was *Censor*, preferred a law, whereby he only moderated the number of guests, without any limitation of the charges or superfluous expence at feasts.

Lex Fannia.

Twentie two yeares after *Orchius* his law C. *Fannius* being *Consul* enacted another, for the moderating of expences, allowing; *Non plures denis assibus* to bee spent in their ordinary feasts: But vpon those more solemne feasts dedicated vnto *Saturne*, and from thence called *Saturnalia*, likewise when any publique games were exhibited to the *Roman people*, he then allowed *Centum asses*, ordaining that no other fowle should then be dressed but only one henne, & that not fatted for the purpose.

Non plures denis assibus] The *Roman* coyne *As* was so called [c] *quasi æs.* because the matter thereof was *brasse*; [d] at first it consisted of a full pound weight; afterward in the first *Punick* warre, by reason of the scarcity of mony, they made of euery pound of brasse sixe of those coynes, each valuing as much

[c] Varro lib. 4. de ling. Latina.

[d] Plin. l. 33. c. 3.

much as they did at first. In the second *Punick* warre then were twelue made of every pound; at last by vertue of a law which *Papirius* enacted, foure and twenty were made of a pound; and so they continued; the value alwaies remained the same, *videl:* ob. q^{a}. so that to allow but ten of these to a feast, seemeth a matter altogether vncredible, but consider with the frugality the cheapnes of those times, it may bee graunted for a truth; [c] for tenne of these were the price of a sheepe, and an hundred the price of on oxe.

[c] A. Gell. l. 11. cap. 1.

Lex Didia.

Eighteene yeares after *Fannius*, *Didius* ordained that the former sumptuary lawes should be of force, not onely in *Rome*, but throughout *Italy*; Moreouer that not only the feast-master transgressing, but all the guests should be liable to the penalty.

Lex Licinia.

P. Licinius Crassus preferred a law in a manner agreeing with the *lex Fannia*, whereby he rather confirmed *Fannius* his law being now antiquated, then made an new.

Lex Cornelia.

Cornelius Sylla being *Dictator* ordained a law for the price of meates, so that he was thought by cheapnes of vittayles to encrease, rather then to restraine superfluities at feasts.

Lex Antia.

Antius Restio preferred a vsefull law, to moderate expenses in feasting, which notwithstanding was violated, and in a manner abrogated, by the contrary practise of the Citizens in generall. For which cause, *Restio* afterward being invited, would neuer come to any feast, becausse he would not be an ey-witnesse of the contempt of that law, which himselfe had caussed. If any desire to see more lawes of this nature, let him read *Stuk. conviv. lib. 1. cap. 3. Aul. Gell. lib. 2. cap. 24.* And *Macrob. Saturn. lib. 3. cap. 17.*

CAP. 13.

Cap. 13.

De re militari & bellis.

Gabinia lex.

A *Gabinius Tr. Pl.* preferred a law that the managing of the war against the Pyrats should bee in such manner committed vnto *Pompey* for three yeares space, that ouer the whole sea betweene *Hercules* his pillars, and in the maritime provinces vnto the foure hundreth *Stadium* from the sea, he should haue power to command any Kings, L. Presidents, or whole corporations to furnish him with all things necessary to that warre. Cic. pro lege Manilia.

Manilia lex.

C. *Manilius Trib Pleb.* perswaded a law, that the managing of warre against *Mithridates* should be committed vnto *Cn. Pompeius*. That the whole Province where L. *Lucullus* ruled together with his whole army should be resigned vp vnto him. Moreouer that *Bithinia*, where *Glabrio* ruled, should be added, together with all those bands and forces, which hee had vpon the sea against the Pyrats, and all those provinces, over which the law *Gabinia* did entitle him gouernour, as *Phrygia, Lycaonia, Galatia, Cappadocia, Cilicia, Colchis superior*, and *Armenia*. Cic. pro lege Manilia.

Cap. 14.

De Tutelis.

THis word *Tutela* doth signifie a wardship, guardianship, or protection of a child in his nonage: whereof [f] *Camerarius* obserueth foure sorts, & we may with *Pellitarius* adde the fift. Either the ouerseers were appointed by will; or else the next of the kinne were ouerseers; or the magi- [f] I. Camerar. in orat. pro L. Flacco.

magistrate did appoint whom he thought fit: and these three sorts [g] *Omphalius* calleth thus: the first *Testamentariam*, the second *Legitimam* the third *Dativam*. The fourth sort *Camerarius* calleth *Tutelam fiduciariam, quæ eorum est, qui emancipati desijssent esse agnati.* the fist [h] *Pellitarius* calleth *Tutelam honorariam*, namely, when as the office of administration is committed to others, but yet certaine chiefe overseers were appointed to see the will performed, who were called *Tutores honorarij.* [i] Where wee must note, that the law provided ouerseers, not for children vnder age only, but for women also.

[g] I. Omphal. in orat pro Cæcinna.

[h] Pellitarius pro Cæcin.

[i] Cic. pro Muræn.

Emancipati desijssent esse agnati] By the *Roman* law euery sonne was in such subiection vnto his father, that before hee could be released of this subiection, and made free, he should by an imaginary sale [k] be sold three times by his naturall father to another man, who was called by the lawyers [l] *Pater fiduciarius*, that is, a father in trust; yea and be bought againe by the naturall father, and so manumised by him, and then he became free. The forme of this kind of sale or alienation is set downe more at large in the explanation of one of the lawes that followeth, with an example not much vnlike this. This imaginary sale was called *Mancipatio*; the children thus alienated from the father were tearmed *Emancipati*; this forme of setting free was tearmed *Emancipatio.* This *Fiduciaria tutela* then, in my opinion was thus. That when any goods did fall vnto a child thus alienated, by the death of his father, then should not the ouersight of this child fall vnto the next of the kinne, tearmed *Agnati*, but *Quoniam desit esse agnatus*, that is, because he had in a manner lost his alliance with his kindred, therefore should the ouersight of the child belong vnto the father in trust, tearmed *Pater fiduciarius*, whence the gardianship it selfe was called *Tutela fiduciaria.*

[k] Vid. leg. 12. tabul.

[l] Sig. de iure. Rom. l. 1. c. 10.

L. 3. de offic.

Lætoria lex.

This law made by *Lætorius* provided, that there should be ouerseers appointed for those which were distracted, or did

did prodigally waſt their patrimonie. For, as it appeareth by the common adage, *Ad agnatos & Gentiles deducendus eſt*, they did account all prodigals, mad men: they meaning no more by that, then we doe by our engliſh prouerb, when we ſay of a ſpend-thrift: let him be begged for a foole. The reaſon of their adage was, becauſe if any were diſtracted, by the *Roman* law his wardſhip fell *Ad agnatos & Gentiles*, that is, to the next of the kindred.

Cap. 15.

De Teſtamentis.

BEfore we deſcend vnto the lawes themſelues, we will explaine thoſe three diuers ſorts of wills in vſe amongſt the *Romans*. Namely *Teſtamentum calatis comitijs*; which was ſo called, becauſe twice in the yeare in time of peace the *Roman* people aſſembled themſelues together to this end and purpoſe, that if any would make his will, the whole people might beare witneſſe therevnto: theſe aſſemblies were tearmed *Calata comitia*. Secondly *Teſtamentum in procinctu*, that is, when a ſouldier in time of warre ready to giue battle, did call out three or foure of his fellowes, and in the audience of them did by word of mouth pronounce his laſt will and teſtament. Thirdly, *Teſtamentum per emancipationem familiæ*, that is, by making ouer his goods and poſſeſſions vnder a fained forme of ſale, vnto a ſecond party called *Hæres fiduciarius & imaginarius*, that is, an heire in truſt, who ſhould afterward reſigne them vnto the true & lawfull heire: and this imaginary kinde of ſale, was performed with certaine ſolemnities *circa æs & libram*, and alſo the ſale it ſelfe was ſometimes called *Nexus*, as likewiſe *Emancipatio*. Hence was the will ſometimes called *Teſtamentum per æs & libram*, ſometimes *Teſtamentum per Nexum*. For the proofe of this, which hath been deliuered, touching the three ſorts of wils I

will referre the reader to [m] *Sigonius.*

m Sig. de iure Rom. l. 1. c. 12.

Furia lex.

Cic. Verrin. 3. C. *Furius Trib. Pleb.* made a law, that it should not be lawfull for any to giue away in way of legacy, vnto any, except to the kinsmen of him which manumited him, or some other certaine persons *supra mille asses*, that is, aboue fiftie shillings or thereabout, there going two *Asses & semis* to the making of one *Sestertius.*

Voconia lex.

Cic. Verrin. 3. *Q. Voconius Saxa Trib. Pleb. tulit legem, Ne qui census esset, virginem, neve mulierem supra quadrantem suorum bonorum hæredem institueret, pluſue cuiquam legaret, quàm ad hæredem, hæredeſve perveniret.*

Census.] This word *Census* doth sometimes signifie all such as haue tendred the iust valuation of their estate vnto the *Censors:* and then *Incensus* is opposite to it, signifying such an one, as hath not tendred his estate or name to be registred by the *Censors.* But in this place *Census* is taken for such a rich man, whose estate was in the *Censors* book valued at one hundred thousand *Sesterces.* (*Vid. Asconium in Verrin. 3.*)

Supra quadrantem suorum bonorum] that is, No woman should be heire to more then one quarter of such a richmans goods. For the right conceauing of this, we must note with [n] *Latomus*, that the whole inheritãce (were it neuer so great) was tearmed *As*, and that was divided into twelue parts, which the lawyers called *Unciæ: Duæ unciæ dicebantur Sextans, tres Quadrans, quatuor Triens, quinq; Quincunx, sex Semiſſis, ſeptem Septunx, octo Beſſis, novem Dodrans, decem Decunx, undecim Deunx, Totum As, ut dictum eſt*, Againe every *Uncia* was divided into six parts called *Sextulæ: Duæ ſextulæ Duellam, tres Semunciam faciunt.* So then according to the lawyers (as [o] *Alexander* obserueth) if there were one heire alone instituted, he was tearmed *Hæres in Assem totum institutus*; if otherwise there were many co-heires, then was it according

n Barth. Latom. in orat. pro Cecinna.

o Alex. Gen. dier. l. 1. c. 1.

cording as the *Testator* did appoint. Some were *ex Deunce hæredes*, that is, heires to eleuen parts of his goods, there being but one part bestowed from him: some were *hæredes ex quadrante*, that is, heires to one quarter of his goods; others were *Hæredes ex semuncia*, that is, they had the foure and twentieth part: others were *Sextula asperſi*, that is, they had the threescore and twelfe part of the whole *As*, that is, of the whole inheritance, be it more or lesse, &c. Here we must vnderstand, that there is great difference betweene these two phrases, *Instituí hæres in totum Assem, & ex toto Asse.* For all those, which were nominated *Hæredes*, whether it were *ex Dodrante, Quadrante, vel Semuncia*, or howsoeuer, yet were they tearmed *Hæredes ex toto Asse*, that is, they were not *Legatarij*, such as receaued legacies. Now none can be said *In totum assem instituí*, but he which is the alone and sole heire vnto the whole.

Cap. 8.

De vsu-capione.

Atinia lex.

Atinius made a law, that the plea of prescription or long possession should not availe in things that had beene stolne, but the interest which the right owner had in those stolne goods, should remaine perpetuall. The words of the law are these: *Quod surreptum est, eius rei aterna auctoritas esset.* Whereby [p] *auctoritas* is meant *ius dominij.* This crime of theft, as likewise of vsury, was so odious vnto the *Romans*, that whosoeuer was found guilty thereof was condemned [q] *Lege quadrupli*, that is, to pay foure times as much: whence the informers against such, were tearmed *Quadruplatores.* Cic. Verrin. 3.

[p] Sig. de iure Rom. l. 1. c. 11.

[q] Fr. Sylv. in Verrin. 1.

Cap. 17.

De Iudicibus, & Iudicijs.

Lex accusatoria.

Cic. pro Mur. TVlly mentioneth a law tearmed *Lex accusatoria*, which in truth was no law, neither was there any author thereof: but there was such a receaued custome amongst the *Romans*, that the accuser should obiect against the party accused, not onely the present crime then questioned, but all other scapes and faults committed long before to the bettering of his matter: that at length this accusatory custome became in manner of a law, and so was called *Lex accusatoria*. vid. *Franc. Syluium in orat. pro Mur.* [r] Their custome also was to procure others to ioine with them in their accusations; those [s] *Tully* calleth *Subscriptores*, because they did subscribe vnto the accusation.

[r] Alex. Gen. dier. l. 3. c. 5.
[s] Cic. pro Muræn.

Lex Seruilia & Sempronia.

Curio in orat. pro Scauro. Whereas *Sempronius* had preferred a law, whereby hee tooke away the authority of sitting in iudgement from the *Senatours*, and appropriated it to the *Roman* Gentlemen; *Q. Seruilius Cæpio* being *Consul* did afterward preferre another law, whereby the administration of iudgement was diuided betweene the Senatours and the Gentlemen.

Rupilia lex.

Cic. in Ver. [t] Sig. de iure Prov. l. 2. c. 5. *Rupilia lex vetabat diebus triginta sortiri dicam.*] Here we must note with [t] *Sigonius*, that this law was of force only in the prouince of *Sicilia*: also that it is one thing *scribere dicam*, that is, to enter an action, another *sortiri dicam*, that is, by lots to choose the Iudges, which was 30. daies after.

Liuia lex.

Cic. de orat. l. 3. Though by vertue of *Seruilius* his law the *Senators* were made capeable of the office of a Iudge, yet they were not thereby

thereby equally capable with the Roman Gentlemen: and therefore did *M. Livius Drusus* ordaine, that the Iudges should be elected equally out of both orders, namely three hundred out of the *Senate*, and three hundred out of the Gentry.

Plautia lex.

M. Plautius Sylvanus preferred a law, that the number of Iudges should be chosen not onely out of the *Roman Senators* and Gentlemen, but out of the populacy also, namely out of every Tribe fifteene Iudges. Cic. pro Cornel.

Aurelia lex.

L. Aurelius Cotta being *Prætor* made a law, that the Iudges should be chosen out of the *Senators*, the Gentlemen and those Martiall Treasurers or Clearks of the band called *Tribuni ærarij*. Cic. in Verr. sæpe.

Pompeia lex.

Cn. Pompeius Magnus being Consul ordained, that the Iudges should be elected out of the wealthiest *Centuries*, tying the election notwithstanding to those three degrees of people, namely *Senatours*, Gentlemen, and Martiall Treasurers; also hee added that the number of Iudges to examine causes should be seauentie and fiue. Cic. in Pison.

Iulia lex.

C. *Iulius Cæsar* ordained, that the election of Iudges should be out of the *Senators* and Gentlemen only, leauing out the Martiall Treasurers; and this *Tully* calleth *legem Iudiciariam Cæsaris*. Cic. Philip. 1.

Antonia lex.

M. Antonius tulit legem, vt tertia iudicum decuria è Centurionibus, Antesignanis, Alaudis, Manipularibus fieret. Cic. Philip. 1. & 5.

Iudicum decuria: When the L. chiefe Iustice had takē his oath, he chose out some *ex certis ordinibus, nō ex omni populo*, that is out of such degree and place, as the law required, to sit in iudgement on those cases, which were tearmed *causæ publicæ*: and these Iudges hee afterward diuided into lesser numbers.

numbers called *Decuriæ. vid. Sigon. de iure Rom. lib. 2. c. 18.*

E Centurionibus.] *Centuriones* were Captaines ouer an hundred footmen.

Anteſignanis.] This word *Anteſignanus* hath a double acception in the *Roman* hiſtories. Sometimes *Anteſignani* doe ſignifie the third part of the *Roman* army: For all thoſe ſouldiers that fought before the banners or enſignes, as they were called *Haſtati* in reſpect of their weapon, ſo were they called *Anteſignani* in reſpect of their enſignes, before which they fought. The ſecond part of the army, as they were called *Principes* in reſpect of their proweſſe and valour, ſo were they called *Subſignani*, as fighting vnder the enſignes. The third part, as they were called *Triarij*, becauſe they fought in the third, or rereward, ſo were they called *Poſtſignani*, as fighting behind the enſignes. Where we muſt not think, that thoſe which were called *Anteſignani* and *Subſignani*, were altogether deſtitute of enſignes among themſelues: (for euery Maniple had his enſigne:) But the Eagle, and other chiefe enſignes were carried by the *Subſignani*, and in reſpect had to them they had their names. And hence ariſeth the ſecond acception of this word, namely that all thoſe ſouldiers of every Maniple, which ſtood in front before their enſigne were called *Anteſignani*, and thoſe were commonly the beſt ſouldiers in the company. See for the ſeuerall proofes of this, *Lipſ. milit. Rom. lib. 2. dial. 3.*

Alaudis.] *Iul. Cæſar* preſſed a legion of ſouldiers out of *Gallia Tranſalpina*, all which afterward hee made free of *Rome*. This legion he called *Legionem Alaudarum*, from the forme of their helmets, which did reſemble the head of the Larke, called in French *Alauda. Barthol. Latomus in Phil. 1.*

Manipularibus.] Thoſe Captaines which gouerned a Maniple of ſouldiers, were called *Manipulares. Fr. Maturantius in Phil. 1.*

Lex Cincia de donis & muneribus.

M. Cincius being protector of the Commons, *M. Cornelius*

lius Cethegus, and *P. Sempronius Tuditanus* being *Consuls* preferred a law, that no man should receaue gift or bribe from his client for pleading his cause. Of this we read in *Plautus*, & he called it *Legem muneralem*: also in *Tully de Senect.*

Cornelia lex.

L. Cornelius Sylla preferred a law, that the chiefe iudge of the bench called *Index Quæstionis*, should referre it vnto the choice of the defendant, whether he would haue iudgement passed on him *Clam an Palam*, that is, (as *Sylvius* obserueth either by voices or by tables. Cic. pro Cluentio.

Memnonia lex.

This law (made by *Memnius*) provided, that no action should be entred against those, who were imployed abroad in businesses for the common-wealth. An addition vnto this law was, that whosoeuer should *calumniari*, that is, forge an accusation against another, a certaine letter should be burnt in his forhead in token of infamy. This law is sometimes called *Lex Rhemnia*. Here wee may with [u] *Fr. Sylvius* obserue the difference of these three phrases, *Calumniari*, *Prævaricari*, and *Tergiversari*. He which doth in his accusation forge faults neuer committed, is said *Calumniari*. Hee which vndertaketh ones suit, and either will not vrge reasons in the behalfe of his client, or answere the obiections of his aduersary when he is able, is said *Prævaricari*, that is, to play the false *Proctour*. He which doth desist in his accusation, and let his suit fall, is said *Tergiversari*. Cic. in Vatin. Cic. pro Sext. Roscio. u Fr. Sylv. in orat. pro Cluentio.

Lex incerta de Nexu.

In ijs rebus quæ mancipi sunt, in periculum iudicij præstare debet, qui se nexu, obligauit, that is, if the buyer of any thing in that forme of sale called *Nexus* be troubled in law, the seller thereof must secure him, and saue him harmelesse. Cic. pro Mur.

Mancipi sunt] [x] Those things were tearmed *res Mancipi*, which were alienated from the seller *Nexu*, that is, by such a forme of sale as followeth. The forme was thus; At the least fiue witnesses, all *Romane* Cittizens and of full age, besides. x Fr. Sylv. in orat. pro Mur.

sides one called *Libri-pens* (from holding of a paire of ballances) should be present: and the chapman or buyer should come with a certain brasse coyne in his hand, and say (for example sake, if it were a bondslaue to be sold) *Hunc ego hominem ex iure Quiritium meum esse aio, isq; mihi emptus est hoc are*; & forthwith striking the ballance with the brasse coyne he gaue it to him that made the sale. This kinde of chaffering was tearmed *Nexus*, as wee may suppose *à nectendo*, because it did binde the seller to make good the sale: [y] sometimes it is called *Per æs & librum venditio*, because of the ceremonies vsed in it. [z] Now it is commonly called *Manoipatio* [a] *à manus capione*, from taking that which is sold into ones hands or possession: whence the word *Mancipatus*, and *Mancipium* are vsed to signifie a bondslaue, that is in this manner solde; though sometimes *Mancipium* doth signifie the sale it selfe: whence *Cic.* vseth this phrase, *Lex Mancipij*, to signifie a clause or condition put in the sale. All things sold after this manner were tearmed *Res mancipi*; [b] The word *Mancipi* being a nowne indeclinable, as *Frugi, Cordi, Huiusmodi &c.* and from this forme of sale, the morgaging of land for the payment of mony may seeme to be called *Mancipatio fiduciaria*; He which did thus receaue the morgage, or land in way of securitie, is said *accipere fiduciam. Cic. orat. pro L. Flacco.* Vpon which place saith *Lambinus* in his annotations. *Accipere fiduciam, est fundum, aut aliam rem soli, seu vt appellant immobilem, ab aliquo mancipare, seu accipere ea lege, vt cum ille repetat ei remancipet.* We may coniect the reason of these ballances, why they should be vsed in this kinde of bargaining, to be, because in old time they did not bargaine by paying coined mony, which was called *Æs signatum*, but by paying a certaine weight of mony, whence such mony was tearmed *Æs graue*. And hence it is, that metaphorically we translate *Pendo* and *rependo*, to pay and repay.

y Sylv. ibid.

z Melanct in orat. pro Mur.

a I. Camerar. in orat. pro Muræn.

b Priscian l. 3. vid. Fr. Sylv. in orat. pro Mur.

c Alex. Gen. dier. l. 4. c. 15.

CAP. 18.

Cap. 18.

De Maiestate.

Lex Varia.

Q. *Varius Trib. Pl.* made a law, that the *Prætores Quæsitores* should sit in iudgement vpon those, by whom the Allies or Associates had beene moued to attempt warre against the *Roman* people. Cic. pro Cornel.

Iulia lex.

C. Iul. Cæsar ordained, that such as were condemned of treason, or causing vproares in the common wealth, should bee banished. Cic. Philip. 1.

Cap. 19.

De ambitu.

THose lawes were tearmed *Leges de ambitu*, which were made against vndirect or vnlawfull courses vsed in canvasses for offices.

Fabia de Ambitu.

This Lex *Fabia* restrained the number of those poore men, who because they were wont to follow vp and downe, & all the day to attend such as did stand for offices, were thence called *Sectatores.*

Acilia Calpurnia.

M. Acilius Glabrio, and *C. Calpurnius Piso*, bein *Consuls* made a law, that such as were conuinced of sinister and vndirect meanes vsed in their canuasses, should be fined at a certaine summe of mony set on their heads, and they should be made both vncapable of bearing office, and vneligible into a *Senators* place. Cic. pro Muræn.

Senatus consultum de Ambitu.

Cic. pro Mur. *M. Tullius Cic.* and *C. Antonius* being *Consuls*, a certaine decree was made by the *Senate*, that if such as did either salute or attend vpon those which stood for offices, were hired by any manner of reward; or if any publike prizes were occasioned to be plaid; or any publike feasts made by them, they should be liable to the censure of *Calpurnius* his law.

Tullia lex.

Cic. pro Sext. *M. Tullius* Cic. made a law, that no man standing for an office should cause any publike prize to be plaied, within two yeares that he either had stood, or should stand for an office, vnlesse the day had formerly beene appointed by some will. *Item*, he ordained, that *Senators* being found to haue vsed vnlawfull meanes for the attaining of any office, should suffer ten yeares exilement. And the commonaltie offending in that point, should be punished with an heauier punishment then the law made by *Calpurnius* laid on them. An addition vnto this was, that if any being cited to his answere in the court of their vndirect meanes, *Si morbum excusaret*, that is, If he did vrge his sickneſſe for his not appearance, then should he vndergoe a penaltie.

Si morbum excusaret] So that *Tully* here seemeth to cut of that liberty which the twelue tables permitted in these words [*Si Index alterve ex litigatoribus morbo sontico impediatur, iudicij dies diffisus esto.*] that is, If either Iudge, Plaintiffe, or Defendant were sicke, they should *diffindere diem, id est,* [d] *proferre & in aliud tempus reijcere*, prorogue the time of iudgement. And vnlesse some might thinke, that by *morbus sonticus* was meant some strange desease, *Sigonius* inferreth that euery desease is tearmed *Sonticus*, which hindreth vs in the performance of our businesses: *Sontes enim nocentes dicunt.*

d Sig. de iud. lib. 1. cap. 28.

Licinia de Sodalitijs.

Cic. pro Plancio. *M. Licinius Crassus* being *Consul*, perswaded, *vt in Sodalitijs Iudices ab accusatore ex tribubus ederentur.*

Sodalitia

Sodalitia.] In the latrer times the *Romans* in their canvaſſes would gather together a certain company of their ſide or faction to follow them, tearming them *Sodales*: and theſe *Sodales* would as it were by violence force the people to ſuffrage with them, whence the violence offered by them was tearmed *Sodalitia*, *Sig. de Iud. lib. 2 cap. 30.*

Iudices ab accuſatore ederentur ex tribubus.] We may read of three ſorts of Iudges among the *Romans*, or rather of three diuers kindes of elections of their Iudges. For either they were *Lecti ſortitione*, of which more may be ſeene in one of the lawes following; or *Editione*, by nomination or naming them, the manner thereof being thus; That either the Plaintiffe ſhould chooſe them all, and then were they called *Iudices editiij*, or the Plaintiffe ſhould chooſe one halfe, and the Defendant the other, and then were they called *Iudices alterni. Melanthon in Cic. pro Muræn.*

Cap. 20.

De pecunijs repetundis.

FIrſt touching the word *Repetundæ* *Sigonius* ſaith, that ſuch mony was tearmed *Pecuniæ repetundæ quæ poſſent repeti*, which might by the courſe of law be recouered Namely ſuch mony as any magiſtrate, Iudge, or publike officer, did either in the Provinces, or in the Citty receaue as a bribe, from the Allies and Aſſociates, or from the *Roman* cittizens for the adminiſtration of iuſtice, or the execution of any publike duety: and this knde of bribe they tearmed *Pecunias repetundas, pecuniam ablatam, captam, coactam, concilatam, averſam* (*Cic. in Verinis*) But as it ſeemeth very probable theſe lawes againſt bribery were firſt occaſioned, for the eaſe and relieſe of the *Roman* Provinces and Allies, called in Latine *Socij*, who were much abuſed in this kinde by the Prov. *Conſuls*, *Prators*, and *Quæſtors*, &c. Whence *Tully*

ly calleth this law against bribery, *Legem Socialem*. Here also may we note, that [d] *Tully* vseth this phrase, *Pecuniam occupare*, for *Fœnerari*, to put mony to vse. *Occupare pecuniam est collocare inquit Nonius, id est, Fœnori dare. Vid. Lambin annot. in Cic. orat. pro L. Flacco.*

d Cic. in orat. pro L. Flacco.

Iunia lex.

M. Iunius Pennus Trib. Pl. preferred a law that no such as were convinced of bribery, *Præter litis æstimationem exilium etiam damnato esset irrogatum.*

Litis æstimationem.] Here we will consider the difference of these three phrases, *Litis contestatio, Litis redemptio,* & *Litis æstimatio.* [e] The first signifieth the producing of witnesses when both sides shall openly in the court vse the forme of words, *Testes estote*: which was not done, *antequam satisdationes factæ essent*, before sureties were put in, by the one, that he should *Iudicatum soluere*, pay that which he was condemned: by the other, that he would *rem ratam habere*, that is, stand to the verdict or sentence in the Court. The second phrase signifieth a composition or an argument agreed vpon by both sides betweene themselues: [f] *Redimere lites est pactionem facere; qui enim paciscitur, facit vt lis non sit.* The third is when the party which is cast in the suit is adiudged to pay the mony, or the worth of the goods called in question, together with the cost and dammages in law vnto his aduersary. [g] *Litem æstimare est pecuniam, de qua lis fuit, & propter quam condemnatus est reus, in summam redigere, quæ de bonis eius redigatur.* [h] And *Æstimare litem est, quod vulgò dicitur, Taxare litis expensas.*

e Sig. de ind. lib. 1. cap. 27.

f Fr. Sylv. in orat. pro Q. Roscio.

g Fr. Sylv in. orat pro Cluentio.

h I. Tiflin. in orat. pro Rabirio.

Acilia lex.

M. Acilius Glabrio made a law, that such as were accused of bribery, *Neq; ampliari, neq; comperendinari possent*, that is, they must out of hand receiue iudgement.

For the right vnderstanding of these two words [*Ampliari & Comperendinari*] we must consider the ancient customes and ceremonies vsed by the *Romanes* in handling their suits of

of law. First there was *In ius vocatio*, that is, a citation of one into the Court. Secondly, *postulatio*, that is, a request put vp vnto the *Prætour*, that it might be lawfull for the Plaintiffe to enter his action against the Defendant; whence *Postulare aliquem de hoc vel illo crimine*, is to accuse one of this or that crime. Thirdly, *Nominis delatio*, that is, the taking of the Defendants name into the court-booke: and this was tearmed, *Intendere actionem, vel Litem*; and *Diem alicui dicere*, that is to enter an action against one. In the second of these Acts, namely when request was made by the Plaintiffe vnto the *Prætour*, that he might enter his action against the Defendant; then the plaintiffe did *Vadari reum*, that is, demande sureties or bale from the defendant, that he would appeare vpon the day appointed by the *Prætour*. And the Plaintiffe did againe, *Promittere vadimonium*, enter bond also for his owne appearance vpon the same day, which commonly was the third day following, called properly *Dies perendinus*, and sometimes *dies tertius* simply, as it appeareth by those capitall letters. I. D. T. S. P. vsed to bee written in their actions: which letters [i] *Probus* expoundeth thus: *In diem tertium, siue perendinum*. So that then properly. *lis vel reus dicitur comperendinari*, when the giuing of sentence is differred till the third day. Moreouer before the *Prætor* would suffer the action to be entred, he would sweare the Plaintiffe, that he did not accuse the Defendant *calumniandi causâ*, that is, falsely or maliciously, and this kinde of swearing was tearmed *Calumniam iurare, calumniam deiurare*, and *In litem iurare*. Now if either party were absent from the court vpon the third day, except he were sicke, he was cast in his suit, and the *Prætor* did grant an execution called *Edictum peremptorium*, whereby he gaue autority to his aduersary to seaze vpon his goods. Sometimes there were two or three edicts in manner of Processes or writs, before the *Edictum peremptorium* could be obtained; sometimes it was graunted at the first, and then was it [k] called *vnum pro omnibus*

[i] Sig. de Iud. lib. 1. cap. 27.

[k] Sig. eiusd. l. cap. 28.

[1]Sig eiusd. l. cap. 21.

bus.[1] Now if both parties came into the court and did appeare, then were they said *sestitisse*: so that this word *sisto* amongst the lawyers did signifie to shew ones selfe in the court. Vpon the third day the *Prætor* also with the whole bench of Iudges did meete, and the *Index Quæstionis* (whom *Rosinus* maketh a distinct officer differing from the *Prætor*) did cause all the *Select* Iudges to pull out certaine lots, out of an vrne or pitcher brought thither for that purpose, & those Iudges vpon whom the lot fell were to sit in Iudgement: This was called *Sortitio Indicum*. Now if either the Plaintiffe or Defendant did suspect any of those, that they would be partiall, then might he accept against them, and that was called *Iudicum reiectio*: Then the *Index quæstionis* would in manner aforesaid choose other Iudges in their places, and that was called *subsortitio*. Which being ended, those Iudges which were thus chosen received every one of them from the *Prætor* three tables, the one hauing this letter *A* written in it, betokening *Absolution*: wence *Tully* calleth it *literam salutarem*: The other hauiug this letter C written in it, betokening *Condemnation*: the third hauing these two letters *N.L.* betokening *Non liquet*. After the receipt of the tables, then did the *Prætor mittere vel dimittere iudices in consilium*, that is, sent them to cast their tables into the vrnes, there being three vrnes or little coffers purposely provided; the one for those iudges which were chosen out of the *Senators*, the other for those that were chosen out of the Gentlemen, the third for those which were chosen out of the *Martiall* Treasurers. Now if they did cast the first sort of tables into the vrnes, then the *Prætor* pronounced the defendant absolued; if the second, then he pronounced him condemned; if the third, then he pronounced *Amplius cognoscendum*, that they must haue longer time to enquire: And this is properly termed *Ampliatio*, a Repriue and in such manner it is said, *quod lis vel reus dicitur Ampliari*. The proofes for this manner of proceeding in law may be collected out of *Rosinus lib antiq. 9. cap.*

cap.19.20.&24. and out of *Sigonius* according to the marginall quotations. The like custome seemeth to haue beene receaued also among the Græcians, who had three letters of their alphabet, answerable to those among the *Romans*; Θ was *damnationis symbolum*, which occasioned that of *Persius*,

Et potis es nigrum vitio præfigere theta.

T; a token of absolution; A of ampliation. *Vid. Erasm. Adag.* Θ *præfigere.* Some as it appeareth by *Erasm.* giue a reason of Θ, because it resembleth the heart of man wounded in the middest with a dart; others because it is the first letter of θάνατος, signifying death according to that,

Infelix multis theta est, mihi littera felix.
Si Θάνατον *scribit, scribit & illa* Θεον.

Cornelius Sylla Being *Dictator* ordained a law that the chiefe Iudge called *Index Quæstionis* with the whole bench of Iudges, should sit vpon life and death on such as had killed a man; on such as had with an euill intent set any place on fire; on such as should walke with any weapon either to kill or robbe a man; on such as had either made, bought, sold, had, or giuen any poyson, thereby to kill a man; on any magistrate, whosoever should cause any conventicle or secret assemblies, or should giue their consent to the suborning of any man to accuse another falsely, that thereby he being innocent might be oppressed and condemned by publique iudgement. Moreover *De eius capite quærite &c.* that is, Let them sit vpon life and death on that man, which shall beare false witnesse, that another might be condemned to death; on that magistrate or chiefe Iudge, which shall take a bribe to condemne another to death. Cic. pro Cluent.

Parricidium.] This word doth properly signifie onely a murthering of ones parents or kinsfolke, but in *Numa Pompilius* his time it signified as much as *homicidium*, that is any man-slaughter whatsoeuer.

CAP. 21.

Cap. 21.

Lex. 12. tabularum de Vindicijs.

Si qui in iure manum conserunt, vtreiq; superstitibus præsentibus vindicias sumunto.

Si qui in iure.] Here wee must note that the custome among the *Romans* in old time was, that as often as any controversie did arise touching the possession of an house, a field, or any such like thing, the *Prætor* did goe vnto the house, field, or the thing questioned, being accõpanied thither with the plaintiffe and the defendant, togither with others whom the law required to be present as witnesses. This place wheresoeuer it were, though in the open field, during the time that the *Prætor* sate there to giue iudgement, was tearmed in Latine *Ius*, in English a Court. Wherein the presence of the *Prætor* and the witnesse, the plaintiffe and Defendant did *manum conserere*, that is, as [m] *Camerarius* supposeth, argue and dispute the case *pro* and *con* in a solemne forme of words prescribed them by the law. For this phrase is borrowed by the Lawyers from the art military, where souldiers are said *manum vel manu conserere*, when they fight hand to hand. [*Vtreiq; superstitibus præsentibus*] that is, let both parties in the presence of witnesses (so [n] *Festus* expoundeth *superstites*) [*Vindicias sumunto*] that is, let them take a turffe of the ground: for so [o] *Sigonius* expoundeth *Vindiciæ*; though properly (as he obserueth) it signified the possession of a thing, rather then the thing possessed. This turffe being taken vp, was carried to the *Prætor*, and iudgement was giuen vpon that, as vpon the whole. I do presume that in other cases, as in taking the possession of an house, &c. some other thing in manner of the turffe was presented vnto the *Prætor*, vpon which as vpon the whole he gaue iudgement. In processe of time, the *Prætor* by reason of the tumult of other imployments; not finding conuenient leasure to review euery particular

[m] I. Camerar. pro L. Muræn.

[n] Rosin. ant. lib. 8. c. 29.

[o] Sig. de iud. lib. 1. cap. 21. *Vindiciam ferre est sententiâ decretoq; rem obtinere: Dicebat Vindicias index ferebat Vindicias qui rem obtinebat Turneb. adv. l. 13. 27.*

cular ground, or house called in question, P it was ordained contrary to the twelue tables, that the plainteiffe in such cases should come into the court, and challenge the defendant in this forme of words, *Ex iure manu consertum te voco*, that is, I challenge thee to goe out of the court into the field, to vse one towards the other that solemne forme of words which the law inioyneth. Then did the defendant either yeeld the possession of the ground, or else did reply. *Unde tu me ex iure manu consertum vocasti, inde ibi ego te revoco.* Then did they both taking witnesses with them without the company of the *Prætor inire viam*, that is, goe into the ground bringing back a turffe thereof, vpon the which (as in manner shewne) the *Prætor* gaue iudgement at their returne.

p A. Gell. noct. Attic. l. 20. c. 10.

For the better vnderstanding of this that hath beene spoken in the explanation of this law, wee must note that the action tearmed *Vindicatio* was twofold: either the suit for the possessiō of a thing, or the suit for the Lordship or right owning thereof. The possession of any thing was recouered, either by a true and reall violence, or by a seeming violence. This seeming violence was twofold, either it was *manus consertio*, which was shewne immediatly before; or *Moribus deductio*, that is, a customary leading the vnlawfull *possessor* out of the ground thereby to enter possession. *Vis simulata, altera à lege, altera emanavit à moribus*; saith q *Sigon.* The first of these did arise from the *Roman* law, the other from a custome amongst the *Romans*: the first of these is to be seen in *Tully* his oration *pro Murana*, the other *pro Cœcinnâ*. To these *Sigonius* addeth a third kinde of seeming violence; which how iustly he hath tearmed a violence, I shal leaue to the indifferent iudgement of the vnpartiall reader. The right of the Lordship or owning any thing was sued for in this manner: The plainteiffe did question with the defendant thus; first *An auctor esset?* that is, whether he had not couertly made away the possession of the thing, thereby to frustrat the action. Secondly, *An sponderet*, that is, whether he would

q De iud. lib. 1. cap. 1.

put in a gage of mony into the court, which he would forfeit if he were cast; which being done, the plaintiffe did also vpon the demand of the defendant put in a gage of mony to be forfeited, if he preuailed not in his suit. This gage of money was tearmed [r] *sacramentum*; and in this sense, *Tully pro Milone*, saith, *Iniustis vindicijs, & sacramentis alienos fundos petunt*, that is, they sue for other mens grounds, with vniust actions and gages of mony. Thirdly, *An satisdaret*, that is, whether he would put in surety, that during the triall in law, the ground or house called in question should not be impaired. The solemne forme of words vsed in the first demand, is thus to be seene in [s] *Tully*, *Quando in iure te conspicio, postulo anne sies auctor*? If the defendant held his peace, then was hee adiudged to pay all costs and damages; if he professed himselfe the present *possessor*, then did the plaintiffe proceed in manner as he should for the possession thereof; if he denied it, then did the *Prator* say vnto the plaintiffe, *Quando negat, sacramento quarito*: Therevpon saith the plaintiffe to the defendant, *Quando negas, te sacramento quinquagenario provoco: spondes ne te soluturum quinquaginta asses, si auctor sis*? To whom the defendant replied, *Spondeo quinquaginta asses si auctor sim. Tu verò spondesne idem, ni sim*? The plaintiffe answered, *Ego quoq; spondeo*. Now in this kinde of stipulation, the plaintiffe was said *sponsione & sacramento provocare, sacramento rogare, quærere, & stipulari*, that is, to challenge one to pawne a summe of money for the triall of a suit in law. The defendant was said, *contendere ex provocatione, contendere sacramento, & restipulari*, that is, to be sued in such maner. This money was tearmed *sacramentum*, [t] because when it was forfeited, it was bestowed *in rebus sacris & divinis*. Touching the last interrogatory, I read no set forme of words, but by the word *satisdatio*, the intelligent reader may coniect, that it did somewhat symbolize with our English custome of putting in bale. [u] This putting in of bale was twofold. The one was *satisdare iudicatum solui*, to bind himselfe to

[r] Sigon de iudic. l. 1. cap. 21.

[s] Cic. orat. pro Muræna & pro Cœcinna.

[t] Sig. de iud. lib. 1. cap. 21.

[u] Sigon. de iudic. lib. 1. c. 27.

to pay what ſhould be adiudged. The ſecond, was *ſatiſdare rem ratam habere.* To become bound that he would ſtand to the verdict and iudgement of the court. The firſt of theſe bonds was required to be performed by the defendant; the ſecond by the plaintiffes Proctour or Atturny. But if the Action were an Action of debt, then the Proctours alone became bound; the Plaintiffs Proctour that he would ſtand to the indgement; the Defendants Proctour, that the debt adiudged ſhould be paid.

LIB. 4.

Rites and customes obserued by the Romans in their warres.

De Militiâ.

TOuching the art *Military* vsed among the *Romans*, it will not be impertinent to consider, first how warre was proclaimed, & peace established by them: Then to march on to the description of their bands, or companies, where we may first obserue the office of their chiefe Captaine, and their subordinate leaders, together with the seuerall wards into which the vniuersall army was diuided. After this we may descend vnto the diuersitie of punishments vsed toward Captiues, & likewise towards refractarious and disobedient souldiers: Adding as a *Corollary*, or *Period* to our whole discourse the seuerall rewards, which the L. Generall with his souldiers after the performance of certaine noble atchieuements receaued.

CAP. 1.

CAP. I.

De ritu, quem Romani obseruârunt vel fœdus ferientes, vel bellum inferentes: & de triplici ratione conscribendi milites.

WEE may remember that it hath beene already shewne, that both the proclaiming of warre and peace belonged vnto a certaine order of *Roman* Priests called *Fœciales*, whom by reason of their office I englished Heralds at armes. The rites and ceremonies, which they vsed, when they proclaimed peace were as followeth. *viz.* One of those Heralds hauing his commission from the State (after that both sides had agreed vpon the truce and league now to be concluded) tooke vp a stone in his hand [a] vsing this solemne forme of words: *Si rectè & sine dolo malo hoc fœdus atq; hoc iusiurandum facio, dij mihi cuncta felicia præstent; sin aliter aut ago aut cogito (cæteris omnibus saluis) in proprijs patrijs, in proprijs legibus, in proprijs laribus, in proprijs templis, in proprijs sepulchris solus ego peream, vt hic lapis è manibus decidat*, and therewithall he cast the stone out of his hand: which manner of oath was tearmed *Iurare Iovem lapidem*, or *per Iovem lapidem*, that is, as it hath beene rendred by *Festus*, to sweare by *Iupiter* holding a stone in ones hand. [b] Many say that he did cast that stone at an hogge or porker brought thither purposely, adding these words to the former; *Si prior populus Romanus defexit publico consilio, tum ille Diespiter, populum Rom. sic ferito, vt ego hunc porcum hodiè feriam:* alluding to which custome *Virgil* saith,

Et cæsa iungebant fœdera porcâ.

The manner of denouncing warre hath beene alreadie shewne. The act of seruice in warre was tearmed *Mereri sub hoc vel illo duce*, that is, to serue in warre vnder this or that Captaine; & whatsoeuer souldier was discharged of his ser-

[a] Polyb. vid. Rosin. antiq. l. 10. c. 2.

[b] Sig. de iure Ital. l. 1. c. 1.

vice, as hauing serued out his whole time, he was called *miles emeritus*, & by [c] *Tully*, such an one is said *stipendia confeciſſe*. [d] *Seruius* hath obserued that the *Roman* souldiers were prest three manner of waies: *per Sacramentum, Coniurationem, & Euocationem*. But [e] *Lipsius* censureth him for the amisse explanation of the last member. Therefore the indifferent reader shall giue me leaue to borrow the tearmes from *Seruius*; but the explanation of them partly from *Seruius*, and partly from *Lipsius* in the places now quoted. Ordinarily souldiers at their presse did each seuerally take their oath not to forsake their Captaine or country; & this oath was called *Sacramentum militare*. The words thereof are rendred by [f] *Polybius* thus: *Obtemperaturus sum, & facturus quicquid mandabitur ab imperatoribus, iuxta vires*; & those were tearmed *Milites per sacramentum*. [g] This sort of souldiers were vpon appointed daies as it were of publique Muster, elected and chosen by the military *Tribunes* vnder the *Consuls*: the assignement of the day did chiefly belong vnto the *Consuls*, at which time if any souldier withdrew himselfe, and did not appeare, he was seuerely punished, sometimes by imprisonment, sometimes by confiscation of his goods, sometimes by being sold for a bondslaue. Vpon extraordinary occasions (as when tumults or commotions did cause any suspition of imminent danger) the chiefe leader of the souldiers did goe vnto the Capitoll, & brig forth two banners or flaggs, the one red called therefore *Vexillum Roseum*, vnto which the footmen repaired; the other sky-coloured called therefore *Caruleum*, which the horsemen followed. The reason why the horsemens banner was sky-coloured, is [h] rendred thus, because it did most resemble the colour of the sea, which color they deemed most acceptable to *Neptune*, who was both the God of the sea, and the first author of horses. Now because the suddaine danger would not yeeld so much time, that they might seuerally be sworne, therefore did they take their oath in common altogether, onely one chiefe souldier throughout

[c] Orat. pro lege Manil.
[d] Serv. l. 2. & 7. Æneid.
[e] Lipſ. de milit. Rom. lib. 1. dial. 8.
[f] Vid. Lipſ. de milit. Rom. l. 1 dial. 6.
[g] Lipſ. de mil. Rom. l. 1. dial. 4
[h] Serv. Æn. l. 8

throughout a whole legion, tooke his oath at large, and in expreſſe words,[i] the reſt followed in order one by one, ſaying καθάπερ ὁ πρῶτος, that is, that hee ſwore the ſame as the firſt. If the *Tribune* diſtruſted his ſouldiers fidelitie, then would he ſweare thē every one ſeuerally in tearmes at large. And thence were they called *Milites per coniurationem*; as likewiſe *Milites ſubitarij* in reſpect of their ſuddaine preſſe. The third member may alſo be admitted, if we with **Lipſius* vnderſtand it in its true ſenſe, namely for thoſe ſouldiers who by the L. Generall were added vnto the body of their army; hee hauing authority to call out ſuch other ſouldiers, who for their long ſeruice were diſcharged from giuing in their names at a muſter. And theſe are generally by all authors tearmed *Milites euocati*; and *Lipſius* deemeth them all one, with thoſe whom *Seruius* calleth *Milites per euocationem*. The ſouldiers being thus preſſed, if they purpoſed to make war vpon their enimies, then did the L. Generall ſummon them to prepare themſelues by a ſound of Trumpets; & this was tearmed *Claſſicum canere, à calando*, which ſignifieth to call. Which being done, a skarlet banner was hanged out at the L. Generall his pauilion: from which ceremony I think that that commō adage did firſt ariſe, *Conferre ſigna, & Collatis ſignis pugnare*, to ioyne battle. Immediatly vpō this they did *Barritum tollere*, make a great ſhout or noiſe with their voices to the greater terror of their enimies: & that the noiſe might be the greater, they did *Arma concutere*, ruſtle together with their armour, and claſh their ſwords. Theſe foure ceremonies are to be ſeene more at large in [k] *Lipſius*. Vnto which we may adde the fift, obſerued by [l] *Fr. Sylvius*; namely that at the remouing of their camp, they did *conclamare vaſa*, giue a great ſhout or cry in token that the ſouldiers ſhould truſſe vp their bagge and baggage: & hence it is that [m] *Plautus* vſeth this phraſe, *Colligatis vaſis*, to ſignify as much as *paratè* or *expeditè*. Now that they might be the readier for battle, they did gird (as I ſuppoſe) their ſouldiers coats cloſe vnto

[i] Lipſ. de mil. lib. 1. dial. 6.

* Lipſ. de mil. Rom. lib. 1. dial. 8.

[k] Lib. 4. de milit. Rom. dial. 11. & 12.

[l] In ep. viror. illuſt. l. 4. ep. 1.

[m] Plaut. in Pſeudolo.

vnto them: & a souldier thus girt was called *Cinctutus*, that is, (saith [n] *Pighius*) *Cinctu tutus*. [o] *Inde Discinctos ignavos, & militiæ minime aptos putârunt, Præcinctos verò fortes & strenuos.* Hence also is that proverbiall speech, *In præcinctu stare* or *Vivere*. To be in a readinesse continually.

Non pudet ad morem discincti vivere Nacci? *Pers. Sat. 3.*

[n] Pigh. in sua præf. ad lib. 1. septim.

[o] Alex. Gen. dier. l. 1. c. 20.

Cap. 2.

De Legione, Auxilijs, & legionis partibus.

2

THE *Roman* forces were in old time divided into two severall parts; namely, *in Legiones & Auxilia*, into Legions and Auxiliary bands. The Auxiliarie bands were such forces as the neighbour and confederate countries did send vnto the *Romans*. The Legions were taken out of the body of the *Romans*. [p] *Legio, à diligendo dicta est*, from the choice and selecting of souldiers. [q] *Romulus* is said to hane beene the first author of these Legions, making every Legion to containe three thousand footmen, & three hundred horsemen, [r] one thousand footmen & one hundred horsemen being taken out of each national Tribe. Afterward it was augmented by *Romulus* himselfe into foure thousand footmen, [s] whence it was called *Quadrata legio*. And in processe of time a legion increased vnto the number of six thousand: which number it seldome or neuer exceeded (as it appeareth by *Sigon.* in the place now quoted.) Now [t] none could be ordinarily registred for a souldier vntill the seuenteenth yeare of his age, [u] at which his first admission he was tearmed *Tyro*, a fresh-water souldier: and hence figuratiuely *Tyrocinium* hath not beene translated only the first entrance into warre, but also the initiation or first entrance into any art or science whatsoeuer. After he had serued many yeares, then was hee tearmed *Veteranus*, an old beaten souldier. [x] The *Roman* legion was divided *In pedites & equites*, there being

[p] Plutarch. in Romulo.

[q] Rosin. ant. lib. 10. cap. 4.

[r] Sig. de iure Rom. l. 1. c. 15.

[s] Sigon. ib.

[t] Alex. Gen. dier. l. 1. c. 20.

[u] Pancirol. l. rerum deperdit. cap. de habit. & vest. veter.

[x] Sig. de iure Rom. l. 1. c. 15.

being commonly for every thousand footmen an hundred horsemen. *Pedites distributi erant in Cohortes; Cohortes in Manipulos; Manipuli in Centurias: Equites distributi erant in Turmas, Turmæ in decurias.* The word *Cohors* doth signifie that part of ground, which is commonly enclosed before the gate of an house, [y] which from the same word wee call a Court: and [z] *Varro* giueth this reason of the *Metaphor*. As in a farme house (saith he) many out-buildings ioyned together make one enclosure: so *Cohors* consisteth of seuerall maniples ioined together in one body. It is manifest (saith [a] *Alexander*) that the *Romans* in ancient time did very seldome, yea neuer (except in great necessity) inroll into their vniuersall army aboue foure legions: & in an ordinary legion, which he tearmeth *Legionem iustam*, ten *Cohortes*; euery *Cohors* containing 3 maniples, euery maniple two Centuries, euery Century an hundred souldiers: whence they from *Centum* were called *Centuria*, a centurie. [b] These centuries were sometimes diuided into lesser numbers called *Contubernia*; euery *Contubernium* containing ten souldiers besides their captaine, [c] which was called *Decanus*, and *Caput Contuberny*. Where we must obserue, that *Contubernium* doth signifie as well the pauilion or lodging it selfe, as the souldiers lodging therein: and it may be so called *quasi Contabernium*, from *Taberna* signifying any slight lodging made of boards. Those that ruled ouer a thousand footmen we may in English call Seriants maior: They called then *Tribuni militum*. Those that governed over the centuries were called by them *Centuriones*, by vs in English Centurions: and they had their inferiour officers vnder them, which were called *Tergiductores*, or *Extremi agminis ductores*. [d] Their office was to ouersee and looke vnto those of the campe which were sick, who commonly came behind the army, *quasi extremum agmen, & tergum aciei*. The horsemen were diuided into seuerall troopes called *Turmæ*, every *Turma* containing thirty horsemen. Againe euery *Turma* was subdiuided into three lesse companies called *Decuriæ*; every

[y] Edmunds in his obseru. vpon Cæsars Comment. lib. 2. c. 3.

[z] Varro. lib. 3. de re rustica.

[a] Alex. Gen. dier. l. 1.

[b] Varro. vid. Rosin. ant. Rom. l. 10. c. 5.

[c] Rosin. ibid.

[d] Veget. vid. Rosin. ant. Rom. l. 10. c. 7.

Decuria containing ten horsemen: whence their captaine was called *Decurio*, and the captaines ouer the greater troopes, namely ouer the seuerall wings of the horsemen, were called *Equitum præfecti*. Now the chiefe gouernour over the vniuersall army was called commonly *Imperator*: we in English call him a L. Generall. His Lieutenant or L. deputie was called *Legatus*, [e] who in old time was sent *non tam ad imperandum, quàm ad consulendum imperatori*. This word *Imperator* in the *Roman* histories hath a threefold acception. First it is taken for him, who by commission from the state hath the managing of an army, being the same that *Prætor* was in ancient time: and in this sence it hath affinitie with the office of our L. Generall. Secondly for such a L. Generall, who by his proweſſe hauing put [f] one thousand of his enimies to the sword, was both by his souldiers saluted, and the *Senate* styled by the name of *Imperator*. But if he had slaine lesse then one thousand, he was not thought worthy of this solemne salutation by that name. Lastly it was taken for a soueraigne Prince, King, or Monarch, in which sence it was the *Prænomen* of all the *Roman* Emperours from *Iulius Cæsar* forward. Now because the souldiers in a legion must of necessitie differ much in estate, age, and experience, some being welthier, elder, and of more experience then others; hence was it requisite also, that there should be a distinction of places in their armies, according to the desert and worth of each seuerall person. We are therefore likewise to vnderstand, [g] that the *Consuls* every yeare made a generall muster: at which time the military tribunes chose out the youngest and poorest of all the rest, and called them by the name of *Velites*. Their place in regard of the other souldiers was base and dishonourable, not onely because they fought a farre off and were lightly armed; but also because they were commonly exposed to their enimies as forelorne hopes. According to [h] *Lipsius* these *Velites* were commonly placed either *In Fronte, Vijs*, or *Cornibus*. 1. In the front of the army. 2ly in the distances

e Lipſ. de mil. Rom. lib. 2. dial. 10.

f Barth. Latom. in Phil. orat. 14.

g Lipſ. de mil. Rom. l. 1. dial. 3

h Lipſ. de mil. Rom. lib. 4. dial. 3.

stances, or spaces between the seuerall Maniples. 3ly In *Cornibus*, that is, In the wings of the battle: Not that the wings at any time consisted of those *Velites*, for that was the *Socy* and Auxiliary forces; but either the spaces in the wings were filled vp by those *Velites*, or else they might obtaine a promiscuous place among those forrainers. Notwithstanding they did like scouts run two and fro, casting out their darts (as occasion was offered) and so retire: whence when a man doth leape from one thing to another in his talke, we say he doth *Agere velitatim*. Hauing chosen out a competent number of these scoutes, they proceeded to the choice of them, which they called *Hastati*, that is, Pike-men: forasmuch as they fought with a kinde of iaueling, which the *Romans* called *Hasta*. These pike-men fought in the first part or fore-front of the maine army. The third choise which they made, was of the strongest and highest bodied men, who for the prime of their age were called *Principes*: and hence was the second place or ward in the maine army called *Principia*, according to[i] *Thraso* his speech, *Ego ero post principia*, that is, I Will follow the *Principes*, thereby choosing to himselfe the best, & safest place. The last sort of souldiers, which stood in the third place or rereward, were called *Triarij*. They were of all, the most approved, and the very last help and refuge; so that if they failed, all was lost: and hence ariseth that forme of speech, *Ad triarios ventum est*, [k] whereby we signifie that a thing is come to the last push. As I suppose, the weapon, wherewith these *Triarij* fought, was a dart with yron fastned at the end of it, called in Latine *Pilum*. The reasons of this my coniecture are these: first because the first century of these *Triarij* was called *Primum pilum*, and their centurion *Primopilus*, and *Primipilus*, and *Primus centurio*, because hee was the chiefe centurion in a whole legion, as having the charge of the chiefe banner called the Eagle; [l] whence *Aquila* is sometimes vsed to signifie *Primopilatum*, the office and place of the *Primopilus*. The second Century was called *secundum*

[i] Terent Eun. Act. 4. Scen. 7.

[k] Alex. Gen. dier. l. 5. c. 15.

[l] Lipsi. de mil. Rom. lib. 2. dial. 8.

pilum, and their Centurion *Secundipilus*, &c. Secondly, they called the *Principes*, which marched in the battle immediatly before these *Triarij*, *Antepilanos*: which argueth that those souldiers which followed next should be the *Milites Pilans*; and by consequence their weapon should be that kinde of dart which they called *pilum*. Their manner of embattleing was divers. Sometimes they would make a winged army, so that the maine body thereof should be in the middle, and on each side a lesser company: The maine body wee in English call the **Vauntgard**, and the two lesser companies wee call **Wings**; as likewise in *Latine* they called them *Alas aciei*, and *dextrum vel sinistrum cornu*. [m] *Pancirollus* calleth them *Vexillationes*, because there fought no more in either wing, then belonged to one banner called in Latin *Vexillum*. The gouernours of these wings he calleth *Alarum Præfectos*. Sometimes they embatled so, that the forefront of the Army being small, it was enlarged bigger and bigger backward in manner of a triangle: By [n] *Lipsius* it is demonstrated vnto vs vnder the forme of the greeke letter Δ He in the same place calleth it *caput porcinum, quia velut fodit & ruit in vadendo*. Commonly it is called *Cuneus militum*, the *metaphore* being borrowed not only frō the resemblance it had with a wedg, but also from the vse of a wedge: for they neuer embatled in that forme, vnlesse it was to breake through their enimies, the piercing angle being thicke compacted with targets. Sometimes they did in a quite contrary manner enlarge their army in the fore front, making it to end in an angle: and [o] this they called *Forfex* and *Forceps militum*. Sometimes their forme of embatling was circular, and then was it called *Orbis vel globus militum*. The banner or flagge was properly called *Vexillum*, being a deminutiue of *Velum*. It was also called [p] *Bandum*: whence we doe at this day call so many souldiers, as doe fight *sub eodem bando*, a **band** of souldiers: as *Romulus* called those that fought *sub eodē manipulo fœni*, an handfull of hay being vsed at that time inkeed of a flagge) *Manipulum militum*. *Ovid.* *Pertica*

m Pancir. in notit. orient. & occident. imper. c. 32.

n Lipſ. milit. Rom. lib. 4. dial. 7.

o Lipſ. milit. Rom. lib. 4. dial. 7.

p Feſtus. vid. Panc. in not. orient. & occident. imp. cap. 32.

Pertica ſuſpenſos portabat longa maniplos,
Vnde maniplaris nomina miles habet.

*Suidas is plaine, Βανδον καλοῦσι ῥωμαῖοι τὸ σημεῖον τὸ ἐν πολέμῳ that is, The Romans called their military enſigne a Band: hence others haue vſed Βανδοφόρος to ſignifie as much as *Signifer*, an Auncient-barer.

* Suid in voce Βανδον.

CAP. 3.

De oppugnatione vrbis, & ijs quæ ad oppugnationem requiruntur.

IF the ſiege of a towne ſeemed difficult and hard to compaſſe, then did the *Romans* vſe certaine meanes of policie for the better effecting thereof. They inuironed the towne with a broad & deepe ditch, adding therevnto a rampier, fortified with many caſtles and fortreſſes; whereby they both kept the towne from any forraigne ſuccour, and withall ſecured themſelues from ſallies and other ſtratagems. This rampier did extend itſelfe toward the walles of the city, ſo that by making (as it were) a great hill, they might ouertop the citty, and fight with the greater aduantage. Now that this great heape of earth might become firme and well able to ſupport the buildings to be erected vpon it, they did caſt in ſuch timber and ſtones among the earth; and this heape of earth, ſtones, and timber when it was reared, was properly called *Agger*; whence commeth both the Latine verbe *Exaggerare*, and the Engliſh to Exaggerate, that is, to amplifie or encreaſe a matter. The ſtakes, poſts, and trees, which were rammed in about this bulwarke or rampire to vphold the earth, were ſometimes called [q] *Cerui*, becauſe of their forked and ſharpe tops, but more properly [r] *Valli*, and *Valla*. The diſtance or ſpace betweene each ſtake was called *Intervallum*; though now *Intervallum* doth ſignifie not onely ſuch a diſtance, but any diſtance either of ſpace or time, as it appeareth

[q] Lipſ. polior. lib. 2. dial. 2.
[r] Serv. Æneid. lib. 10.
[ſ] Cic. ep. fam. lib. 1. ep. 7.

reth by that of [f] *Tully: Intervallo locorum: & temporum disiuncti.* Sometimes *Vallus* doth signifie a pole or stake, whereunto vines are tyed; according to that receiued adage, which we vse when a speciall friend forsaketh one, *Vallus vitem deserit.* From the first signification it is, that *Vallum* doth often signifie the inclosure, or hedging in of trees & stakes, where-

[f] Cic. ep. fam. lib. 1. ep. 7.

with the bulwarke is vpheld: Alluding whereunto [t] *A. Gellius* translateth Ἔρυμα ὀδόντων, *Vallum dentium.* The meanes of their defense, whiles they were making this their rampire, was a certaine engine or ordinance of warre [u] made of plankes and hurdles running vpon wheeles, vnder which they might rest secure from all stones and darts cast from the wals of the city: It was called *Vinea.* A second engine was *Musculus:* The matter whereof it was made I haue not read: but the vse of it was, that vnder it the souldiers might approch vnto the wals of the citty, and vndermine them. Thus much [x] *Lipsius* seemeth to inferre, when he rendreth the reason of the name: *Musculus id: ò dictus, quia instar eius animalculi foderent sub eo terram.* A third meanes of their defence was *Militaris testudo.* This word *Testudo* in the art Military had a double acception, both being borrowed from ther esemblance of the *Tortoise* shell, which is the true and genuine signification of this word. In the first acception *Testudo,* [y] doth signifie a warlike engine or fense made with boards couered ouer with raw hides, which serued against fire and stones cast at the souldiers, vnder this they might safely assaile the wals. [z] In the second acception it signified a target-fense, which was a close holding togither of targets ouer head like a vault or roofe, wherewith the footmen did defend themselues from the thicke shot of arrowes or slinging of stones. Their rampier or countermure being finished, they vsed certaine great timber towers made vpon wheeles to run too and fro, which they called *Turres ambulatoriæ,* moueable turrets. These towers had many stories one ouer the other, [a] wherein they carrying ladders and casting bridges thereby to scale the

[t] A. Gel. Noc. Attic. l. 11. c. 15.

[u] Rosin. ant. Rom. lib. 10. c. 16.

[x] Lipsi. polior. lib. 1. dial. 9.

[y] Rosin. ant. R. l. 10. c. 16.

[z] Stad in Flor. l. 4. c. 10.

[a] Rosin. ant. Rom. lib. 10. cap. 16.

wals

wals. The engines hithervnto haue beene defensiue, such wherewith the *Romans* defended themselues in their siege: others there were offensiue, wherewith they did assaile the city; and of those the chiefe were *Balista siue Catapulta*, *Scorpius sive Onager*, *Aries*, & *Malleoli*. The first of these engines, as it was called *Balista ἀπὸ τῦ βάλλειν*, from darting or casting forth any thing, [b] so was it in old time called *Catapulta ἀπὸ τῆς πέλτης*, which signifieth a shaft or dart; Though it cannot be denyed, but that *Pelta* doth also signifie a kind of shield made in the forme of an halfe moone, according to that of *Virgil. Æneid lib. 1.*

Ducit Amazonidum lunatis agmina peltis,
Penthesilea furens.----

[b] Lipſ. polior. lib. 2. dial. 2.

The forme thereof followeth, translated word for word out of [c] *Marcellinus*. [Between two plankes there is set in frame, and fast ioyned a strong and bigge yron, reaching out in length after the manner of a good great rule; out of the round body whereof, which is artificially wrought, there lyeth forth farther out a fowre square beame, made hollow with a direct passage in manner of a narrow trough, tyed fast with many cords of sinewes twisted one within another, and therevnto are ioyned two woodden skrewes; neere vnto one of which standeth the cunning Balistier, and subtilly putteth into the hollow passage of the beame a wooden shaft with a bigge head glewed fast to it. This done on both sides, two lustie young men doe bend the engine by turning about certaine wheeles. When the top of the head is drawne to the vttermost end of the cords, the shaft being carried forth of the Balista, by the inward force thereof, it flyeth out of sight.] That the reader may receaue the more light in the vnderstanding of this obscure descriptiõ, I haue added the very words of *Marcellinus*. [*Ferrum inter axiculos duos firmum compaginatur & vastum, in modum regulæ maioris extentum: cuius ex volumine teretis, quod in medio ars polita componit, quadratus eminet stylus extensiùs recto canalis angusti meatu cavatus, &*

[c] Am. Marc. lib. 23. cap. 3.

hac

hac multiplici chordâ nervorum tortilium illigatus: eiq; cochleæ duo lignea coniunguntur aptissimè, quarum propè vnam adsistit artifex contemplabilis, & subtiliter adponit in temonis cavamine sagittam ligneam spiculo maiore conglutinatam: hocq; facto hinc inde validi iuvenes versant agiliter rotabilem flexum. Quum ad extremitatem nervorum acumen venerit summum, percita interna pulsu à balista ex oculis evolat. In respect of its vse we may englisth it a Crosse-bowe: but it was much bigger, and of a different forme. The Scorpion, which now they call *Onager*, is described by *Marcellinus* in the same place thus. [Two oaken or elme beames were hewn out, and somewhat bended, so that they seeme to bunch out in backes; and these in manner of a* saw engine are tied fast together, being bored through with wide holes, through which (by the meanes of those holes) strong cords are tied, keeping in the whole frame that it start not asunder: * From betweene those bunches, another wooden beame reaching forth ouerthwart, & in manner of a waine-beame erected vp, is tied with such deuises vnto certaine ropes, that it may be pulled vp higher, or let down lower at ones pleasure; and at the top thereof certaine yron hookes are fastned, from which hooks there hanged downe a certaine sling either of yron or tow: Vnder which erected beame there lyeth a great peece of haire-cloath full of small chaffe tied fast with cords, & placed vpon a banck of turfes, or a heape of brickes: When therefore it cometh to the point of skirmish, a roũd stone being put into the sling, foure young men on one side loosing the beames, into which the ropes are incorporated, doe drawe backe the erected beame vnto the hook. Thus at length the master of the engine standing in some high place, giuing a mighty stroke with a hammer (and as I suppose vpon the cord, wherevnto the erected beame was fastned, with his hooke) setteth open the railes, that containe the whole worke, insomuch that this erected beame being now at liberty with that quicke stroke, & hitting against the soft haire-cloath, it hurleth out the stone, that

* *Machinæ Serratoriæ*

* Ab. hac medietate testium] *Here we must note that this significatiõ of testes is borrowed from the* Anatomists, *which doe call certaine eminẽt parts behind.* ἀμυγδαλοειδὲς Testes. Vid. Fuchs. instit. med. l. 1. Sec. 5.

that will batter whatsoeuer is in the way. And it is called *Tormentum, quod ex eo omnis explicatio torquebatur.* It is also called *Scorpio*; because when the long beame or tillar is erected, it hath a sharp top in manner of a sting. The moderne time hath imposed vnto it the name of *Onager*, that is a wild Asse, because that wild Asses, when they are coursed by hunters, fling back stones with their heeles a farre off, so that oftentimes they peirce the breasts of them that follow them. The Latine word is made from the Greeke ὄνος, that is, *Asinus* & Ἀγρὸς, *rus vel ager.* Now if any aske mee, why that sackcloath of ashes was interposed, the reason is rendred by *Marcellinus* in two lines, which I purposely did not translate in their place, because I would continue the sense, without such a long *parenthesis.* The reason is there deliuered thus; because the violence and force of the erected beame recoiling, after it had beene by the stroke discharged, was such that it would shake in peeces the strongest wals, except there were some soft thing interposed, whereby the forcible strength of the recoile might be by degrees slacked. The *Aries* or Ramme is described also by *Marcellinus* in the same place. [The Ram was a great tree, or beame *like vnto a mast of a ship*, hauing a peece of iron in manner of a Rams head, fastned at the end thereof, wherewith they did demolish and batter downe the wals of a Citty. It was hung vnto a beam. which lay a crosse ouer a couple of pillars, and hanged thus equally ballanced, it was by force of men pulled backward, and then recoiled vpon the wals.] The Rammes which *Titus* vsed at the siege of *Hierusalem*, ranne most on wheeles: which kinde of Rammes are described by *Iosephus.* There be, saith he, other manner of engines, as an iron Ram vpon 4 wheeles, bound with yron, and fastned with yron nayles, to this they make foure feet answerable to the bigneſse of the beame, & every foot hath his seuerall wheele, & when they will batter the wall, certaine men first pulling it backe, they recoile it by the helpe of foure wooden leuers put in the hin-

der part thereof for that purpose. The head of this Ramme hath no hornes, but is blunt, made of the strongest kinde of yron, with a wonderfull thick neck. They haue also of both sides of the Ram a pentise of wood for the safegard of those that recoile it. *Iosephus Ben Gorion de bello Iudaico.* In lieu of these Rammes another engine was found out, called *Helepolis, ab invsitato* Ελω, that is, *capio*, and πόλις, that is, *civitas.* The forme of it is to be seen also in *Marcell. ibid.* [There was (saith he) a *Testudo*, or vaulted frame made, strengthned with very long peeces of timber: it was couered ouer with Oxe hides, and greene wicker hurdles: the vpper part or convexe sur-face thereof was ouerlaid with mudde, to the end that it might keep off the fall of fire and casting of weapons. Now there were fastned in the front of it certain *Cuspides trisulcæ*, that is, iron pikes with three edges very massie, in manner of the thunderbolts, which Painters and Poets exhibit vnto vs. This great engine the souldiers ruling within with diuerse wheeles & ropes, with maine force they thrust it against the wals.] [*Malleoli* (saith the same *Marcellinus*) were certaine darts fashioned on this manner; there was an arrow made of a cane, betwixt the head and the nocke whereof was fastned an iron full of clefts; which arrow like vnto a womans distaffe, on which linnen is spinned, was finely made hollowe within the belly, yet open in many places: In the belly it receaued fire with fuell to feed vpon. And thus being gently discharged out of a weake bow (for with an ouer strong shooting the fire was extinguished) if it tooke fast hold on any place, it burned the same, and water being cast thereon, the fire increased: neither was their any meanes to quench it, but by casting dust on it.] Now if they could not prevaile by these engines called *Machinæ*, then did they make certaine passages vnder ground, which they called *Cuniculi* from *Cuniculus* signifying a cony berry: insomuch that these two phrases are opposite, *Machinis*, and *Cuniculis oppugnare*, as it appeareth by that of [d] *Plutarch*, *Cæsar non iam cuniculis, sed*

[d] Plutarch. in vit. C. Cæs.

sed machinis tollit rempublicam, that is, He doth not now covertly, but with open violence assault the common weale.

Cap. 4.

De pœnis in hostes devictos.

Albeit after the victory the *Romans* inflicted diuerse degrees of punishment, according to the malice found in an enimie; yet were they alwaies compassionate, & (as histories testifie) more exorable then any other nation. The punishments which we finde them to haue vsed towards a conquered nation are these. Either they punished them by death; or sold them *sub corona*; or dismissed them *sub iugum*; or merced them in taking away their territories; or made them tributary states. [c] An enimie was said to bee sold *sub corona*, when he being placed in the market place, a crowne was put vpon his head in token of such a sale: or therefore certaine captiues were said to be sold *sub corona*, because at such times they were environed about with souldiers to keepe them together, and this circle of souldiers, as likewise of all other companies, is called *Corona*. When they dismissed any *sub iugum*, [f] they erected two speares with a third lying a crosse in manner of a gallowes: then they caused them being disarmed, and their belt taken away to passe vnder in token of bondage. When their territories were taken from them, they were commonly conferred vpon old beaten souldiers, in way of remuneration for their faithfull service. This transplantation was tearmed *Colonie deductio*; and the place ever after *Romana Colonia*, that is, a Roman Colonie. At which times they chose out every tenth mã, *viz.* such as were able and of best sufficiencie to make and establish a publike councell, [g] whom they named *Decuriones*. Whence we may obserue, that *Decurio* is not alwaies taken for a Captaine ouer ten horsemen, but sometimes it is vsed to signify

[c] A. Gell. l. 7. c. 4

[f] Stad. in Flor lib. 1. c. 12.

[g] Sig. de iure Ital. l. 2. c. 4.

signifie an Alderman, or chiefe Burgesse in a *Roman* Colony. These Colonies were of two sorts, some called *Coloniæ Latinæ*: others *Italicæ*. The Latin Colonies had *Ius ciuitatis, suffragij & Magistratus capiendi, si in sua Colonia magistratum gessissent. Italicis autem, Ius ciuitatis & suffragij nullum erat, immunes tamen erant, nec tributum aut stipendium pendebant, vt provinciæ solebant. Turneb. aduers. l. 1. c. 11.* Diuers times the *Romans* would be content after the conquest to grant to their enimies a peaceable inioying of their lands & possessious, conditionally, that they would yeeld all faithfull allegiance vnto the L. Deputy, whomsoeuer the *Senate* of *Rome* should place ouer them. The L. Deputy was either stiled by the name of a *Proprætor*, a *Proconsul*, or a *Præfectus*. Those places where the two first sorts of gouernours did rule, were tearmed *Provincia*; the other from the gouernour was tearmed *Præfectura*. Where we must obserue that this word *Provincia* hath a threefold acception. First it is taken for a country, which by the force & power of armes is subdued to the *Roman* Empire, and gouerned by some *Roman* Deputy sent from the *Senate*: & this is the proper & primitiue signification thereof, it being so called, [h] *Quod populus Rom: eam provicit, id est, ante vicit.* Secondly, it is taken for any region or country, where the L. Generall or chiefe Captaine ouer a *Roman* army doth mannage warre against any nation by commission from the *Senate*. Lastly, it signifieth any publike function, or administratiō of office, yea any priuate duty, charge or taske either vndertaken, or imposed; according to that of [i] *Terence, Provinciam cepisti duram*, that is, thou hast vndertaken an hard taske. Now the tribute to be paid was either certaine, or vncertaine. The certaine was properly called *Tributum vel Stipendium*; & those who paid it were tearmed *Tributarij sive Stipendiarij*: and this Tribute was of two sorts, either ordinary, such as was required from everyhouse yearely, euen in the time of peace; or extraordinary, such as was leuied by a law or decree of the *Senate* towards vnexpected

[h] Pigh. lib. Tyrannif.

[i] Terent. in Phor.

pected charges. The vncertaine tribute [k] properly called *Vectigal*, was [l] either impost-mony, such as was collected in haven townes for the transportation of marchants wares, and that was called from *Portus Portorium*, or frō *Porta Portarium*, and the receauers thereof *Portitores*. The wares after the impost mony had beene paid were sealed by the *Publicanes* with a certaine kinde of tempered chaulke: and this is that which *Cicero* vnderstandeth by *Asiatica creta, orat. pro Flacco*. Or Tithe corne, namely the tenth part of their graine and that was called from *Decem Decumæ*, and the receauers thereof *Decumani*, though *Decumanus* when it is an adiectiue signifieth as much as *Maximus*, according to that of *Ouid. lib. 1. de Trist.*

Qui venit hic fluctus fluctus supereminet omnes;
Posterior nono est, vndecimóq; prior.

The reason of this signification is [m] supposed to be, because in *Arithmeticke* amongst simple numbers the tenth is the greatest: or lastly that mony, which was paid by certaine heards-men for pasturing their cattle in the *Roman* fields & forrests. This kinde of tribute was called *Scriptura*, and the pastures *Agri Scripturarij*; because (as [n] *Festus* saith) the bayliffe or receauer of this mony, called *Pecuarius*, did *Scribendo conficere rationes*, that is, keep his account by writing. Where we must note, first that all these kindes of Tributes were not only required in Provinces or Countries subdued, but throughout *Italy*, euē in *Rome* it selfe. Secondly though each collectour of these Tributes was distinguished by a peculiar name, yet by a generall name they were all called [o] *Publicani*, in as much as they did take to rent these publike tributes. The chiefe of them, which entred into bond, as the principall takers or farmers of these tributes *Tully* calleth *Mancipes*. The others which were entred into the same bond as sureties, were tearmed *Prædes*. Many times the *Romans* did bestow the freedome of their citie vpon forraign countries; and the degrees of freedome was proportioned accordingly

[k] Sig. de iure Rom. l. 1. c. 16.
[l] Stadius in Flor. l. 3. c. 13.
[m] Fr. Sylv. in viror. illust. ep. 2. lib. 1.
[n] Sig. de iure Rom. l. 2. c. 4.
[o] Cic. de Arusp. respons. & alias sæpe.

as the countries were. Some they honoured with the name of *Roman* citizens, but excluded them frō the right of suffraging, leauing them also to be gouerned by their own lawes and magistrates. This state they called a *Municipal* state, in Latine *Municipium*, because they were *Muneris huius honorarij participes.* By *Munus honorarium* in this place is vnderstood nothing but the bare title of a *Roman* citizen. whereby they were priuiledged to fight in a legion as free Denisons; not in an auxiliary band, as the associats. Now the first that ever obtained this Municipal state, were the *Cerites* who for preseruing the holy things of *Rome* in the time of the warre against the *Gaules*, were rewarded with the freedome of the citie, but without power of suffraging; From whence it is, that those tables, wherein the *Censors* inrolled such as were by them depriued of their voices, were called *Cerites tabulæ*; *Horace* calleth such a table *Ceritem ceram*, for the reason shewne before. But we must withall obserue, that some Municipall townes haue either by desert or instant suit obtained the liberty of suffraging also, which occasioneth that receaued distinction, that there was *Municipium sine suffragio*, & *Municipium cum suffragio.* Other countries which could not be admitted into the freedome of the citie, haue obtained, and that not without speciall & deserued respects to be associats and confederats vnto the state of *Rome.* The inhabitants of such countries were sometimes called *Socij*, sometimes *Amici*, sometimes *Latini nominis socij*, *&c.* The King or Prince of such a country did stile himselfe *Amicus & Socius Senat. & Pop. Rom.* Here we must obserue a difference betweene *Pactio* and *Fœdus*, both signifying a kind of league. That truce which in time of warre is concluded vpon and accepted of both sides for a certaine limited space of time, is properly called *Pactio*; we commonly call it *Induciæ*; and it differed from *Fœdus*: first, because that *Fœdus* is a perpetuall truce or league; secondly because it was necessary, that one of those Heraldes at armes called *Fœciales*, should by

p A Gel. noct. Attic. lib. 16. cap. 13.

q A. Gel. ibid.

r Sig. de iure Ital. l. 1. cap. 1.

s Sigon. ib.

a ſolemne proclamation confirme this league called *Fœdus*; neither of which conditions was abſolutely requiſite in their truce tearmed *Pactio*.

CAP. 5.

Mulcta militares, quibus milites Romani ob delicta afficiebantur.

TOuching the puniſhments that the *Roman* L.General vſed towards his own ſouldiers, when they were faulty, they were commonly proportioned vnto the fault committed. Sometimes they were eaſie, of which ſort were alſo thoſe puniſhments which did only brand the ſouldiers with diſgrace; other times they were heauier, ſuch as did hurt & afflict the body. To the firſt ſort belonged theſe; Firſt *Ignominioſa dimiſſio*, that is, a ſhamefull diſcharging of a ſouldier, whē he is with diſgrace remoued from the army. Secondly, *Fraudatio ſtipendij*, that is, a ſtopping of their pay: & ſuch ſouldiers which ſuffered this kind of mulct, were ſaid to be *ære diruti*, [f] becauſe *Æs illud diruebatur in fiſcum, nō in militis ſacculum*. Thirdly, *Cenſio haſtaria*, whereby the ſouldier was inioined to reſigne and giue vp his ſpeare: for as thoſe which had atchieued any noble act, were for their greater honour *Haſta pura donati*: ſo others for their greater diſgrace were inforced to reſigne vp their ſpeare. Fourthly, the whol *Cohors*, which had loſt their banners, were compelled to eat nothing but barly bread, being depriued of their allowance in wheat; and every Centurion in that *Cohors* had his ſouldiers belt or girdle takē from him, which was no leſſe diſgrace amongſt them, then it is now amongſt vs, that a knight of our order of the Garter, ſhould be depriued of his Garter. 5ly, for petty faults they made them to ſtand barefooted before the L.General his pauilion, with long poles of ten foot length in their hands; & ſometimes in the ſight of the other ſouldiers

[f] Roſin. ant. l. 10. c. 25.

souldiers to walke vp and downe with turfes on their necks. In the last of these they seemed to imitate their city disciplin, whereby malefactors were inioyned to take a certaine beam resembling a forke vpon their shoulders, and so to carry it round about the towne; It hath some affinitie with our carting of queanes here in England. In the first we haue no custome, that doth more symbolize, then the standing in a white sheet in the open view of a congregation. The last of their lesser punishments, was the opening of a vaine, or letting them bloud in one of their armes: t which kind of punishment was vsed towards those alone, which (as they cõceited through the abundance of their hot bloud) were too aduenturous & bold. The heavier kinds of punishment were these: first *Virgis; vel Fuste cædi*, to be beaten with rods; or with staues & cudgels. None were ordinarily beatẽ with cudgels, but those who had not discharged their office, in the sending about that tablet called *Tessera*, wherin the watchword was written; or that had forsaken their place, where they were appointed to keepe watch; or those who had stollen any thing from out the campe; or borne false witnesse against their fellowes, or abused their bodies by women; or lastly, that had beene punished thrise for the same fault: those which were in this maner cudgelled, were often killed in the place; but if they escaped aliue, they were to liue in perpetual exilemẽt. The ceremony vsed in this kind of cudgelling was, that the u knight Martiall should lightly touch the party to be punished with a club, which being done, all the souldiers did beat him with staues and cudgels; whence wee may say of one that deserueth a good cudgelling in x *Tully* his phrase *Fustuarium meretur. Polybius* calleth it ξυλοκοπίαν. *Vid. Lipsi. de milit. Rom. lib. 5. dial. 18.* If a *Roman* souldier had broken his ranke by going out of order, then *Virgis cædebatur*, that is, he was scourged with rods. Sometimes the knight Martial vpon iust occasion would cause them to be sold for bond slaues, to be beheaded, to be hanged. All these punishments were

t Alex. Gen. dier. l. 2. c. 13.

u Trib. milit.

x Cic. orat. Phil. 3.

were personall or particular; there remaineth one which was generall, namely when the fault was generall, as in their vproares, conspiracies, &c. Vpon such occasions the souldiers were called togither, and every tenth man vpon whom the lot fell was punished with that kind of cudgeling aboue spoken of; all the others escaped either without punishment or with very litle. The punishment itselfe was tearmed *Decimatio legionis*, and the reason of this kinde of punishment, is rendred by [y] *Tully: vt metus viz. ad omnes, pœna ad paucos perueniret.* Sometimes such was the clemencie of the L. Generall, that he would punish only the twentieth, nay the hundreth man, & then was it called *vicesimatio, vel centesimatio legionis.*

[y] Cic. pro Cluent.

Cap. 6.

De donis militaribus ob rem fortiter gestam.

COncerning the rewards which were bestowed in war, some were by the *Senate* conferred vpon the L. Generall: others were by the L. Generall conferred vpon his souldiers. Those honours which the L. Generall receiued were three, First *Nomen imperatoris*, of which before. Secondly *supplicatio*, that is, a solemne proceffion continued for many daies togither, sometimes more, sometimes fewer: all which daies the *Roman* people did obserue as holy daies, offring vp daily prayers and sacrifices to the Gods in the behalfe of their L. Generall: The custome being that after some notable victory, the souldiers hauing saluted their cheife captaine (whom I call their L. Generall) by the name of *Imperator*, then would he send letters vnto the *Senate* dight with lawrell, wherein he required both that name to be confirmed & approued by them, as likewise that they would *Decernere supplicationes*, that is, appoint such solemne supplications. Thirdly, they honoured him at his comming home also with a triumph. *Triumphus vel maior, vel minor erat*, saith

Alexander. The leſſer kind of triumph was properly called *Ovatio*[z] *ab ove*, from a ſheepe, which in this time of his triumph was led before him, and afterward ſacrificed by him: As alſo in the greater triumph (called properly *Triumphus*) the L. Generall ſacrificed a bull. It differeth from the greater triumph firſt in the acclamation; for in the leſſer triumph the ſouldiers following did as it were redouble this letter O, & ſome are of opinion that it was therefore called *Ovatio.* In the greater triumph the ſouldiers followed crying *Io triumphe, Io triumphe:* an example whereof may be ſeene in [a] *Horace*, where he deſcribeth the triumph of *Bacchus*, the firſt autor of this greater triumph; from whoſe [b] name alſo divers autors doe deriue this word *Triumphus*, he being in greeke called Θριαμβος which by a little change is made *Triumphus.* Secondly they differed, becauſe in the greater triumph, the L. Generall did weare a garment of ſtate, called by ſome *Trabea*, [c] by others *Triumphalis*, *Picta vel Aurata veſtis*; likewiſe a garland of lawrell, riding in a chariot, the *Senators* themſelues with the beſt of the *Romans* meeting him, his ſouldiers with their coronets, their chaines, and other rewards following after: But in the leſſer triumph the L. Generall did weare a plaine purple gowne without any gold imbrodering, and a garland of myrtle tree [d] commonly going on foote, ſometimes permitted to ride on a horſe; the gentlemen and commonaltie of *Rome* alone without the *Senators* did meete him. Moreover for a perpetuall memory of this their triumph in ſome publike place certaine trophies were erected. [e] *Trophæum monumentum dixere nunc marmoreum, modò æueum, cum inſcriptione & titulis ævo perpetuo duraturis.* [f] *Dictum eſt ἀπὸ τῆ τροπῆσθαι, id eſt, à conuerſione*, frō making the enimies to retire and turne backe. Sometimes there were ſtatues, columnes, and arches built in token of triumph. The ſe arches though commonly they were known by the name of *Arcus triumphales*, yet ſometimes they are called *Fornices*,[g] whence it is that *Tully* calleth *Fabianes* triumphall arch

[z] Salmuth. in Pancir. l. rerū deperd. cap. de triumph.

[a] Ode. 2. lib. 4.

[b] Salmuth. in Pnacir. l. rerū deperd. cap. de triumph.

[c] Alex. Gen. dier. l. 6. c. 17.

[d] Dion. Halicar. lib. 5.

[e] Alex. Gen. dier. li. 1. c. 22.

[f] Serv. Æneid. lib. 19.

[g] Fr. Sylv. in orat. Cic. pro Cn. Plancio.

arch *Fabianum fornicem.* If it so hapned that the *Roman* Generall himselfe personally, did take away any spoiles from the chiefe captaine of the enemies, then did hee hang them vp in a temple consecrated to *Iupiter Feretrius*; who was so called, [h] b ecause as the *Romans* conceited without the speciall assistance of *Iupiter, Dux ducem ferire non poterat*: these spoiles had the name of *Opima spolia*, that is, Royall spoiles. The rewards bestowed vpon the souldiers were diuers: either places of office, as the place of a Centurion, of a *Præfectus*, a *Decurio &c.* or their pay was increased, the spoiles distributed amongst them, or lastly they receiued certaine gifts tearmed *Dona militaria.* In ancient times those souldiers which had best deserued, receiued a certaine measure of corne called by them *Adorea*; [i] and hence it is, that *Adorea* is now vsed to signify such laude and praise, as is due vnto a souldier. But after ages for the better encouraging of the souldiers, haue found out more honourable rewards, of which [k] these were the chiefest; *Armilla*, that is, a brace. let for the hand-wrest; *Torquis*, a chaine to weare about their necke; *Phaleræ*, horse trappings; *Hasta pura*, that is, a speare hauing no yron at the end of it; (it is sometimes called *Hasta donatica*, and *Hasta graminea*;) Lastly *Corona*, crownes, of which *A. Gell. lib. 5. cap. 6.* obserueth these to haue beene the chiefe: *1. Corona triumphalis*, which in old time was made of Lawrell, but afterward of gold, and thence was it called *Corona aurea*: it was sent by the *Senate* vnto the L. Generall in honour of his triumph; Secondly *Corona obsidionalis*, which was giuen by the souldiers vnto the Generall, when they were freed from a siege: it was made of grasse growing in that place, where they were besieged, whence it had the name also of *Corona graminea.* Now the reason why they made this crowne of grasse growing in the place where they were besieged, was thereby to yeeld vp their right in that place vnto their captaine: for by that ceremony, as [m] *Pliny* obserueth, they did *Tertâ & ipsâ altrice humo & humatione etiam*

[h] Alex. Genial. dier. l. 1. c. 14.

[i] Alex. Genial. dier. l. 4. c. 18.

[k] Sig. de iure Rom. l. c. 15.

[l] Rosin. ant. lib. 10. c. 27.

[m] Plin. lib. 22. cap 4.

tiam cedere. And hence it is, that in races & the like masteries, he that was overcome, did gather some of the grasse of that place, & giue it vnto the conquerour, as a token that he did acknowledge himselfe conquered[n] this is the reason of that Adage, *Herbam dare*, that is, to yeeld the victory. Thirdly, *Corona civica*, which was bestowed onely vpon him, which had saued a cittizens life,[o] though in processe of time it was also bestowed vpon the L. Generall, if he spared a *Roman* citizen, when he had power to kill him. It was commonly made of oake; whence it was called *Corona quernea.* And this I take to be the reason why in *Ovids* time the Emperour had alwaies standing before his gates, an oake tree in the midst of two lawrels, as Emblems denoting two worthie vertues required in all Emperours and Princes, first, such whereby the enemy might bee conquered; secondly, such whereby cittizens might be saued. Vnto this *Ovid* seemeth to allude, speaking of the lawrell tree.

[n] Salmuth. in Pancir. l. rerū. deperd. cap. de coronis.

[o] Pigh. l. Tyrannif.

[p] Postibus Augustis eadem fidissima custos
Ante fores stabis, mediamq; tuebere quercum.

[p] Ovid. Met. lib. Fab. 9.

Fourthly, *Corona Muralis*:[q] Hee onely was honoured with this, which did first scale the wals, and enter first into the enimies city: and hence this crowne was cut vpon the circlet or top like vnto the battlements. Fiftly, *Corona Castrensis.* This the L. Generall bestowed on him, which first entred into the enimies tents; it did beare in it the resemblance of a bulwark, or at least of the mound, wherewith the bulwarke was strengthned; which mound was called in Latine *Vallum*, and thence the crowne it selfe was often called *Vallaris corona.* Sixtly, *Corona naualis*, with which he was honoured, which first entred into the enimies ship in a battle vpon sea: it was portrayed with many ship-beakes called in Latine *Rostra*, whence the crowne itselfe was often called *Corona Rostrata.* That Roman *Hercules Siccius Dentatus* obtained almost all those seuerall rewards, and that each many times. Lastly, *Corona oualis*, it was made of Mirtle-tree, the L. Generall

[q] Dion. Halicar. lib. 10.

[r] Pigh. l. Tyrannif.

[s] A. Gel. noct. Attic. l. 2. c. 11.

nerall vſed it in the leſſer kinde of triumphes called *Ovationes*, from whence the Coronet it ſelfe was named *Ovalis*. It was then beſtowed when the Herald had committed ſome errour in denouncing warre; or when the enimies conquered were of meane ranke and place, as Servants or Pyrats; or elſe if the victory were gotten without bloodſhed or great hazard, the enimies yeelding without reſiſtance. *In quibus impulvereis & incruentis victorijs, aptam eſſe Veneris frondem crediderunt, quod non Martius, ſed quaſi Venereus quidam triumphus foret.* A. Gel. l. 5. c. 6.

FINIS.

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